



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 26] नई दिल्ली, बुधवार, सितम्बर 7, 2011/ भाद्र 16, 1933 (शक)
No. 26] NEW DELHI, WEDNESDAY, SEPTEMBER 7, 2011/BHADRA 16, 1933 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 7th September, 2011:—

BILL NO. 77 OF 2011

A Bill to ensure a humane, participatory, informed, consultative and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Land Acquisition, Rehabilitation and Resettlement Act, 2011.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that the Central Government shall appoint such date within three months from the date on which the Land Acquisition, Rehabilitation and Resettlement Bill, 2011 receives the assent of the President.

Application of
Act.

2. (1) The provisions of this Act relating to land acquisition, rehabilitation and resettlement, shall apply, when the appropriate Government acquires land,—

(a) for its own use, hold and control; or

(b) with the purpose to transfer it for the use of private companies for public purpose (including Public Private Partnership projects but not including national or state highway projects); or

(c) on the request of private companies for immediate and declared use by such companies of land for public purposes:

Provided that no land shall be transferred by way of acquisition, in the Scheduled Areas in contravention of the law relating to land transfer, prevailing in such Scheduled Areas.

(2) The provisions relating to rehabilitation and resettlement under this Act shall apply in the cases where,—

(a) a private company purchases or acquires land, equal to or more than one hundred acres in rural areas or equal to or more than fifty acres in urban areas, through private negotiations with the owner of the land as per the provisions of section 42;

(b) a private company requests the appropriate Government for acquisition of a part of an area so identified for a public purpose:

Provided that where a private company requests the appropriate Government for partial acquisition of land for public purpose then the rehabilitation and resettlement entitlements shall be applicable for the entire area identified for acquisition by the private company and not limited to the area for which the request is made.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Administrator" means an officer appointed for the purpose of rehabilitation and resettlement of affected families under sub-section (1) of section 39;

(b) "affected area" means such area as may be notified by the appropriate Government for the purposes of land acquisition;

(c) "affected family" includes—

(i) a family whose land or other immovable property has been acquired or who have been permanently displaced from their land or immovable property;

(ii) a family which does not own any land but a member or members of such family may be agricultural labourers, tenants, share-croppers or artisans or may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land;

(iii) tribals and other traditional forest dwellers who have lost any of their traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 due to acquisition of land;

(iv) family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes

gatherers of forest produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land;

(v) a member of the family who has been assigned land by the State Government or the Central Government under any of its schemes and such land is under acquisition;

(vi) a family residing on any land in the urban areas for preceding three years prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land;

(d) "agricultural land" means land used for the purpose of—

(i) agriculture or horticulture;

(ii) dairy farming, poultry farming, pisciculture, sericulture, breeding of livestock or nursery growing medicinal herbs;

(iii) raising of crops, trees, grass or garden produce; and

(iv) land used for the grazing of cattle;

(e) "appropriate Government" means,—

(i) in relation to acquisition of land situated within the territory of, a State, the State Government;

(ii) in relation to acquisition of land situated within a Union territory (except Puducherry), the Central Government;

(iii) in relation to acquisition of land situated within the Union territory of Puducherry, the Government of Union territory of Puducherry;

(iv) in relation to acquisition of land for public purpose in more than one State, the Central Government; and

(v) in relation to the acquisition of land for the purpose of the Union as may be specified by notification, the Central Government;

(f) "Authority" means the Land Acquisition and Rehabilitation and Resettlement Authority established under section 45;

(g) "Collector" means the Collector of a revenue district, and includes a Deputy Commissioner and any officer specially designated by the appropriate Government to perform the functions of a Collector under this Act;

(h) "Commissioner" means the Commissioner for Rehabilitation and Resettlement appointed under sub-section (1) of section 40;

(i) "cost of acquisition" includes—

(i) amount of compensation which includes solatium, any enhanced compensation ordered by the Land Acquisition and Rehabilitation and Resettlement Authority or the Court and interest payable thereon and any other amount determined as payable to the affected families by such Authority or Court;

(ii) demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;

(iii) cost of acquisition of land and building for settlement of displaced or adversely affected families;

(iv) cost of development of infrastructure and amenities at the resettlement areas;

(v) cost of rehabilitation and resettlement as determined in accordance with the provisions of this Act;

(vi) administrative cost,—

(A) for acquisition of land, including both in the project site and out of project area lands, not exceeding such percentage of the cost of compensation as may be specified by the appropriate Government;

(B) for rehabilitation and resettlement of the owners of the land and other affected families whose land has been acquired or proposed to be acquired or other families affected by such acquisition;

(vii) cost of undertaking ‘Social Impact Assessment study’;

(j) “company” means—

(i) a company as defined in section 3 of the Companies Act, 1956, other than a Government company; 1 of 1956.

(ii) a society registered under the Societies Registration Act, 1860 or under any corresponding law for the time being in force in a State; 21 of 1860.

(k) “displaced family” means any family, who on account of acquisition of land has to be relocated and resettled from the affected area to the resettlement area;

(l) “entitled to act”, in relation to a person, shall be deemed to include the following persons, namely:—

(i) trustees for other persons beneficially interested with reference to any such case, and that to the same extent as the person beneficially interested could have acted if free from disability;

(ii) the guardians of minors and the committees or managers of lunatics to the same extent as the minors, lunatics or other persons of unsound mind themselves, if free from disability, could have acted:

Provided that the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Authority by a next friend, or by a guardian for the case, in proceedings under this Act; and 5 of 1908.

(m) “family” includes a person, his or her spouse, minor children, minor brothers and minor sisters dependent on him;

Explanation.—An adult of either gender with or without spouse or children or dependents shall be considered as a separate family for the purposes of this Act.

(n) “holding of land” means the total land held by a person as an owner, occupant or tenant or otherwise;

(o) “infrastructure project” shall include any one or more of the following, namely:—

(i) any project relating to generation, transmission or supply of electricity;

(ii) any project relating to telecommunication services;

(iii) construction of roads, highways, defence projects, bridges, airports, ports, rail systems or mining activities, educational, sports, health care, tourism, transportation, inland waterways, inland port, space programme, projects involving agro-processing and supply of inputs to agriculture, projects for preservation and storage of processed agro-products and perishable agricultural commodities and housing for such income groups, as may be specified from time to time by the appropriate Government;

(iv) water supply project, irrigation project, water harvesting and water conservation structures, water treatment system, sanitation and sewerage system, solid waste management system;

(v) any other project or public facility as may be notified in this regard by the Central Government;

(p) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(q) "landless" means such persons or class of persons who may be,—

(i) considered or specified as such under any State law for the time being in force; or

(ii) in a case of landless not being specified under clause (a), as may be specified by the appropriate Government;

(r) "land owner" includes any person,—

(i) whose name is recorded as the owner of the land or building or part thereof, in the records of the concerned authority; or

(ii) any person who is granted Patta rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or under any other law for the time being in force; or

(iii) who is entitled to be granted Patta rights on the land under any law of the State including assigned lands; or

(iv) any person who has been declared as such by an order of the court or Authority;

(s) "local authority" includes a town planning authority (by whatever name called) set up under any law for the time being in force, a Panchayat as defined in article 243 and a Municipality as defined in article 243P, of the Constitution;

(t) "marginal farmer" means a cultivator with an un-irrigated land holding up to one hectare or irrigated land holding up to one-half hectare;

(u) "market value" means the value of land determined in accordance with section 26;

(v) "notification" means a notification published in the Gazette of India or, as the case may be, the Gazette of a State and the expression "notify" shall be construed accordingly;

(w) "patta" shall have the same meaning as assigned to it in the relevant Central or State Acts or rules or regulations made thereunder;

(x) "person interested" means—

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

(iii) a person interested in an easement affecting the land;

(iv) persons having tenancy rights under the relevant State laws including share-croppers by whatever name they may be called; and

(v) any person whose primary source of livelihood is likely to be adversely affected;

(y) "prescribed" means prescribed by rules made under this Act;

(z) "project" means a project for which land is being acquired, irrespective of the number of persons affected;

(za) "public purpose" includes—

(i) the provision of land for strategic purposes relating to naval, military, air force, and armed forces of the Union or any work vital to national security or defence of India or State police, safety of the people; or

(ii) the provision of land for railways, highways, ports, power and irrigation purposes for use by Government and public sector companies or corporations; or

(iii) the provision of land for project affected people;

(iv) the provision of land for planned development or the improvement of village sites or any site in the urban area or provision of land for residential purposes for the weaker sections in rural and urban areas or the provision of land for Government administered educational, agricultural, health and research schemes or institutions;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land in the public interest for—

(A) use by the appropriate Government for purposes other than those covered under sub-clauses (i), (ii), (iii), (iv) and (v), where the benefits largely accrue to the general public; or

(B) Public Private Partnership projects for the production of public goods or the provision of public services;

(vii) the provision of land in the public interest for private companies for the production of goods for public or provision of public services:

Provided that under sub-clauses (vi) and (vii) above the consent of at least eighty per cent. of the project affected people shall be obtained through a prior informed process to be prescribed by the appropriate Government:

Provided further that where a private company after having purchased part of the land needed for a project, for public purpose, seeks the intervention of the appropriate Government to acquire the balance of the land it shall be bound by rehabilitation and resettlement provisions of this Act for the land already acquired through private negotiations and it shall comply with all provisions of this Act for the remaining area sought to be acquired.

(zb) "Requiring Body" means a company, a body corporate, an institution, or any other organisation for whom land is to be acquired by the appropriate Government, and includes the appropriate Government, if the acquisition of land is for such Government either for its own use or for subsequent transfer of such land in public interest to a company, body corporate, an institution, or any other organisation, as the case may be, under lease, licence or through any other mode of transfer of land;

(zc) "Resettlement Area" means an area where the affected families who have been displaced as a result of land acquisition are resettled by the appropriate Government;

(zd) "small farmer" means a cultivator with an un-irrigated land holding up to two hectares or with an irrigated land holding up to one hectare, but more than the holding of a marginal farmer.

CHAPTER II

DETERMINATION OF SOCIAL IMPACT AND PUBLIC PURPOSE

A.—PRELIMINARY INVESTIGATION FOR DETERMINATION OF SOCIAL IMPACT AND PUBLIC PURPOSE

4. (1) Whenever the appropriate Government intends to acquire land for a public purpose, it shall carry out a Social Impact Assessment study in consultation with the Gram Sabha at habitation level or equivalent body in urban areas, in the affected area in such manner and within such time as may be prescribed. Preparation of Social Impact Assessment Study.
- (2) The Social Impact Assessment study referred to in sub-section (1) shall, amongst other matters, include all the following, namely:—
- (a) assessment of nature of public interest involved;
 - (b) estimation of affected families and the number of families among them likely to be displaced;
 - (c) study of socio-economic impact upon the families residing in the adjoining area of the land acquired;
 - (d) extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition;
 - (e) whether the extent of land proposed for acquisition is the absolute bare-minimum extent needed for the project;
 - (f) whether land acquisition at an alternate place has been considered and found not feasible;
 - (g) study of social impact from the project, and the nature and cost of addressing them and their impact on the overall costs of the project and benefits *vis-à-vis* the social and environmental costs.
- (3) While undertaking a Social Impact Assessment study under sub-section (1), the appropriate Government shall, amongst other things, take into consideration the impact that the project is likely to have on various components such as public and community properties, assets and infrastructure particularly roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds.
- (4) The appropriate Government may specify the ameliorative measures required to be undertaken for addressing the impact for a specific component referred to in sub-section (3), and such measures shall not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be, the State Government, in operation in the affected area. Public hearing for Social Impact Assessment.
5. Whenever a Social Impact Assessment is required to be prepared under section 4, the appropriate Government shall ensure that a public hearing is held at the affected area, after giving adequate publicity about the date, time and venue for the public hearing, to ascertain the views of the affected families to be recorded and included in the Social Impact Assessment Report.
6. (1) The appropriate Government shall ensure that the Social Impact Assessment study report is prepared and published in the affected area, in such manner as may be prescribed, and uploaded on a website created especially for this purpose. Publication of Social Impact Assessment study.

(2) Wherever Environment Impact Assessment is carried out, a copy of the Social Impact Assessment report shall be made available to the Impact Assessment Agency authorised by the Central Government to carry out environmental impact assessment.

B.—APPRAISAL OF SOCIAL IMPACT ASSESSMENT REPORT BY AN EXPERT GROUP

Appraisal of
Social Impact
Assessment
Report by an
Expert Group.

7. (1) The appropriate Government shall ensure that the Social Impact Assessment report is evaluated by an independent multi-disciplinary Expert Group, as may be constituted by it.

(2) The Expert Group constituted under sub-section (1) shall include the following, namely:—

- (a) two non-official social scientists;
- (b) two experts on rehabilitation; and
- (c) a technical expert in the subject relating to the project.

(3) The appropriate Government may nominate a person from amongst the members of the Expert Group as the Chairperson of the Group.

(4) If the Expert Group constituted under sub-section (1), is of the opinion that,—

- (a) the project does not serve the stated public purpose; or
- (b) the project is not in the larger public interest; or
- (c) the costs and adverse impacts of the project outweigh the potential benefits,

it shall make a recommendation to the effect that the project shall be abandoned forthwith and no further steps to acquire the land will be initiated in respect of the same:

Provided that the grounds for such recommendation shall be recorded in writing by the Expert Group giving the details and reasons for such decision.

(5) If Expert Group constituted under sub-section (1), is of the opinion that,—

- (a) the project will serve the stated public purpose;
- (b) the project is in the larger public interest; and
- (c) the potential benefits outweigh the costs and adverse impacts,

it shall make specific recommendations whether the extent of land proposed to be acquired is the absolute bare-minimum extent needed for the project and whether there are no other less displacing options available:

Provided that the grounds for such recommendation shall be recorded in writing by the Expert Group giving the details and reasons for such decision.

C.—EXAMINATION OF PROPOSAL BY A COMMITTEE CONSTITUTED BY THE APPROPRIATE GOVERNMENT

Constitution
of committee
to examine
proposals for
land acquisi-
tion and the
Social Impact
Assessment
Report.

8. (1) Where the land sought to be acquired is more than one hundred acres or more, the appropriate Government shall constitute a Committee to examine proposals for land acquisition consisting of the following, namely:—

- (a) Chief Secretary of State or Union territory or an officer of equivalent rank nominated by the appropriate Government..... *ex officio* Chairperson;
- (b) Secretaries of the Departments of—
 - (i) Finance..... *ex officio* Member;
 - (ii) Revenue..... *ex officio* Member;
 - (iii) Rural Development..... *ex officio* Member;

(iv) Social Justice *ex officio* Member;

(v) Tribal Welfare *ex officio* Member;

(vi) Panchayati Raj *ex officio* Member;

(vii) the concerned Departments as may be specified by the appropriate Government *ex officio* Members;

(c) three non-official experts from the relevant fields, to examine proposals for land acquisition to be nominated by the appropriate Government Members:

Provided that where the area sought to be acquired is less than one hundred acres the appropriate Government shall appoint a Committee to which it shall delegate the functions and responsibilities of the Committee referred to in sub-section (1).

(2) The Committee constituted under sub-section (1) shall ensure that—

(a) there is a legitimate and *bona fide* public purpose for the proposed acquisition which necessitates the acquisition of the land identified;

(b) the public purpose referred to in clause (a) shall on a balance of convenience and in the long term, be in the larger public interest so as to justify the social impact as determined by the Social Impact Assessment that has been carried out;

(c) only the minimum area of land required for the project is proposed to be acquired;

(d) the Collector of the district, where the acquisition of land is proposed, has explored the possibilities of—

(i) acquisition of waste, degraded or barren lands and found that acquiring such waste, degraded or barren lands is not feasible;

(ii) acquisition of the agricultural land, especially land under assured irrigation is only as a demonstrable last resort.

(3) The Committee referred to in sub-section (1) shall examine the report of the Collector and the report given by the Expert Committee on the Social Impact Assessment and after considering all the reports, recommend such area for acquisition which would ensure minimum displacement of people, minimum disturbance to the infrastructure, ecology and minimum adverse impact on the individuals affected.

(4) The appropriate Government shall make available the decision of the Committee in the public domain and also display the same on its website:

Provided that where land is sought to be acquired for the purposes as specified in clause (b) or (c) of sub-section (1) of section 2, the Committee shall also ascertain as to whether the consent of at least eighty per cent. of the affected families as required under the proviso to sub-clause (vii) of clause (za) of section 3, has been obtained in the manner as may be prescribed.

9. Where land is proposed to be acquired invoking the urgency provisions under section 38, the appropriate Government may exempt undertaking of the Social Impact Assessment study.

Exemption
from Social
Impact
Assessment.

CHAPTER III

SPECIAL PROVISION TO SAFEGUARD FOOD SECURITY

10.(1) Save as otherwise provided in sub-section (2), no irrigated multi-cropped land shall be acquired under this Act.

Special
provision to
safeguard food
security.

(2) Such land may be acquired subject to the condition that it is being done under exceptional circumstances, as a demonstrable last resort, where the acquisition of the land referred to in sub-section (1) shall, in aggregate for all projects in a district, in no case exceed five per cent. of the total irrigated multi-crop area in that district.

(3) Whenever multi-crop irrigated land is acquired under sub-section (2), an equivalent area of culturable wasteland shall be developed for agricultural purposes.

(4) In a case not falling under sub-section (1), the acquisition of the land in aggregate for all projects in a district in which net sown area is less than fifty per cent. of total geographical area in that district, shall in no case exceed ten per cent. of the total net sown area of that district:

Provided that the provisions of this section shall not apply in the case of projects that are linear in nature such as those relating to railways, highways, major district roads, irrigation canals, power lines and the like.

CHAPTER IV

NOTIFICATION AND ACQUISITION

Publication of preliminary notification and power of officers thereupon.

11. (1) Whenever, it appears to the appropriate Government that land in any area is required or likely to be required for any public purpose, a notification (hereinafter referred to as preliminary notification) to that effect along with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:—

(a) in the Official Gazette;

(b) in two daily newspapers circulating in the locality of such area of which one shall be in regional language;

(c) on the website of the appropriate Government in public domain;

(d) by making available a copy of the notification for inspection by persons affected, at the collectorate and tehsil office and at the concerned gram panchayat or urban local body office;

(e) the Collector shall also cause public notice of the substance of such notification to be put up at convenient and conspicuous places in the said area.

(2) No notification shall be issued under sub-section (1) unless the concerned Gram Sabha at the village level and municipalities, in case of municipal areas and the Autonomous Councils in case of the Sixth Schedule areas have been consulted in all cases of land acquisition in such areas as per the provisions of all relevant laws for the time being in force in that area.

(3) The notification issued under sub-section (1) shall also contain a statement on the nature of the public purpose involved, reasons necessitating the displacement of affected persons, summary of the Social Impact Assessment Report and particulars of the Administrator appointed for the purposes of rehabilitation and resettlement under section 39.

(4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed:

Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(5) After issuance of notice under sub-section (1), the Collector shall, before the issue of a declaration under section 19, undertake and complete the exercise of updating of land records as prescribed.

12. For the purposes of enabling the appropriate Government to determine the extent of land to be acquired, it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,—

- (a) to enter upon and survey and take levels of any land in such locality;
- (b) to dig or bore into the sub-soil;
- (c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;
- (d) to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon; and
- (e) to mark such levels, boundaries and line by placing marks and cutting trenches and where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

13. The officer so authorised under section 12 shall at the time of entry under section 12 pay or tender payment for any damage caused, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final.

Payment for damage.

14. Where a preliminary notification under section 11 is not issued within twelve months from the date of appraisal of the Social Impact Assessment report submitted by the Expert Committee under section 7, then, such report shall be deemed to have lapsed and a fresh Social Impact Assessment shall be required to be undertaken prior to acquisition proceedings under section 11.

Lapse of Social Impact Assessment Report.

15. Where no declaration is made under section 19 within twelve months from the date of preliminary notification, then such notification shall be deemed to have been rescinded.

Rescission of preliminary notification.

16. (1) Any person interested in any land which has been notified under sub-section (1) of section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the publication of the preliminary notification, object to—

Hearing of objections.

- (a) the area and suitability of land proposed to be acquired;
- (b) justification offered for public purpose;
- (c) the findings of the Social Impact Assessment report.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by an Advocate and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 11, or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him along with a separate report giving therein the approximate cost of land acquisition, particulars as to the number of affected families likely to be resettled, for the decision of that Government.

Preliminary survey of land and power of officers to carry out survey.

Preparation of
Rehabilitation
and Resettle-
ment Scheme
by the
Administrator.

(3) The decision of the appropriate Government on the objections made under sub-section (2) shall be final.

17. (1) Upon the publication of the preliminary notification under sub-section (1) of section 11 by the Collector, the Administrator for Rehabilitation and Resettlement shall conduct a survey and undertake a census of the affected families, in such manner and within such time as may be prescribed, which shall include—

(a) particulars of lands and immovable properties being acquired of each affected family;

(b) livelihoods lost in respect of land losers and landless whose livelihoods are primarily dependent on the lands being acquired;

(c) a list of public utilities and Government buildings which are affected or likely to be affected, where resettlement of affected families is involved; and

(d) details of the amenities and infrastructural facilities which are affected or likely to be affected, where resettlement of affected families is involved.

(2) The Administrator shall, based on the survey and census under sub-section (1), prepare a draft Rehabilitation and Resettlement Scheme, as prescribed which shall include particulars of the rehabilitation and resettlement entitlements of each land owner and landless whose livelihoods are primarily dependent on the lands being acquired and where resettlement of affected families is involved—

(i) a list of Government buildings to be provided in the Resettlement area;

(ii) details of the public amenities and infrastructural facilities which are to be provided in the resettlement area.

(3) The draft Rehabilitation and Resettlement scheme referred to in sub-section (2) shall include time limit for implementing Rehabilitation and Resettlement Scheme;

(4) The draft Rehabilitation and Resettlement scheme referred to in sub-section (2) shall be made known locally by wide publicity in the affected area and discussed in the concerned Gram Sabhas or Municipalities.

(5) A public hearing shall be conducted in such manner as may be prescribed, after giving adequate publicity about the date, time and venue for the public hearing at the affected area:

Provided that in case where an affected area involves more than one Gram Panchayat or Municipality, public hearings shall be conducted in every Gram Sabha and Municipality:

Provided further that the consultation with the Gram Sabha in Scheduled Areas under the Fifth Schedule shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.

40 of 1996.

(6) The Administrator shall, on completion of public hearing submit the draft Scheme for Rehabilitation and Resettlement along with a specific report on the claims and objections raised in the public hearing to the Collector.

(7) The Administrator shall cause the approved Rehabilitation and Resettlement Scheme to be published in the Official Gazette, and make available in the affected areas and also display a copy thereof on his website.

Review of the
Rehabilitation
and Resettle-
ment Scheme.

18. (1) The Collector shall review the draft Scheme submitted under sub-section (6) of section 17 by the Administrator with the Rehabilitation and Resettlement Committee at the Project level constituted under section 41;

(2) The Collector shall submit the draft Rehabilitation and Resettlement Scheme with his suggestions to the Commissioner Rehabilitation and Resettlement for approval of the Scheme.

19. (1) When the appropriate Government is satisfied, after considering the report, if any, made under sub-section (2) of section 16, that any particular land is needed for a public purpose, a declaration shall be made to that effect, along with a declaration of an area identified as the "resettlement area" for the purposes of rehabilitation and resettlement of the affected families, under the hand and seal of a Secretary to such Government or of any other officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification irrespective of whether one report or different reports has or have been made (wherever required).

Publication of declaration and summary of Rehabilitation and Resettlement.

(2) The Collector shall publish a summary of the Rehabilitation and Resettlement Scheme along with draft declaration referred to in sub-section (1):

Provided that no declaration under this sub-section shall be made unless the summary of the Rehabilitation and Resettlement Scheme is published along with such declaration:

Provided further that no declaration under this sub-section shall be made unless the Requiring Body deposits an amount, in full or part, as may be prescribed by the appropriate Government toward the cost of acquisition of the land.

(3) Every declaration referred to in sub-section (1) shall be published in the Official Gazette and in two daily newspapers circulating in the locality in which the land is situated of which at least one shall be in the regional language, and the Collector shall publish the public notice on his website and cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall indicate,—

(a) the district or other territorial division in which the land is situate;

(b) the purpose for which it is needed, its approximate area; and

(c) where a plan shall have been made of the land, the place at which such plan may be inspected without any cost.

(4) The declaration referred to in sub-section (1) shall be conclusive evidence that the land is required for a public purpose and, after making such declaration, the appropriate Government may acquire the land in such manner as specified under this Act.

20. The Collector shall thereupon cause the land, unless it has been already marked out under section 12, to be marked out and measured, and if no plan has been made thereof, a plan to be made of the same.

Land to be marked out, measured and planned including marking of specific areas.

21. (1) The Collector shall publish the public notice on his website and cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land may be made to him.

Notice to persons interested.

(2) The public notice referred to in sub-section (1) shall state the particulars of the land so needed, and require all persons interested in the land to appear personally or by agent or advocate before the Collector at a time and place mentioned in the public notice not being less than thirty days after the date of publication of the notice, and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, their claims to rehabilitation and resettlement along with their objections, if any, to the measurements made under section 20.

(3) The Collector may in any case require such statement referred to in sub-section (2) to be made in writing and signed by the party or his agent.

(4) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein, be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(5) In case any person so interested resides elsewhere, and has no such agent, the Collector shall ensure that the notice shall be sent to him by post in letter addressed to him at his last known residence, address of place or business and also publish the same in at least two national daily newspapers and also on his website.

Power to require and enforce the making of statements as to names and interests.

22. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being less than thirty days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

45 of 1860.

Enquiry and land acquisition award by Collector.

23. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 21, to the measurements made under section 20, and into the value of the land at the date of the publication of the notification, and into the respective interests of the persons claiming the compensation and rehabilitation and resettlement, shall make an award under his hand of—

(a) the true area of the land;

(b) the compensation as determined under section 27 along with Rehabilitation and Resettlement award as determined under section 30 and which in his opinion should be allowed for the land; and

(c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases.

24. (1) Notwithstanding anything contained in this Act, in any case where a notification under section 4 of the Land Acquisition Act, 1894 was issued before the commencement of this Act but the award under section 11 thereof has not been made before such commencement, the process shall be deemed to have lapsed and the appropriate Government shall initiate the process for acquisition of land afresh in accordance with the provisions of this Act.

(2) Where possession of land has not been taken, regardless of whether the award under section 11 of the Land Acquisition Act, 1894 Act has been made or not, the process for acquisition of land shall also be deemed to have lapsed and the appropriate Government shall initiate the process of acquisition afresh in accordance with the provisions of this Act.

1 of 1894.

Period within which an award shall be made.

25. The Collector shall make an award within a period of two years from the date of publication of the declaration under section 19 and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse.

Determination of market value of land by Collector.

26. (1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

(a) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area.

2 of 1899.

whichever is higher.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in *Explanation 1*, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

2 of 1899.

the concerned State Government shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent. of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1).

27. The Collector having determined the market value of the land to be acquired shall calculate the total amount of compensation to be paid to the land owner (whose land has been acquired) by including all assets attached to the land.

Determination of amount of compensation.

28. (1) The Collector in determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by him.

Determination of value of things attached to land or building.

(2) The Collector for the purpose of determining the value of trees and plants attached to the land acquired, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(3) The Collector for the purpose of assessing the value of the standing crops damaged during the process of land acquisition, may use the services of experienced persons in the field of agriculture as may be considered necessary by him.

29. (1) The Collector having determined the total compensation to be paid, shall, to arrive at the final award, impose a "Solatium" amount equivalent to one hundred per cent. of the compensation amount.

Award of solatium.

Explanation.—For the removal of doubts it is hereby declared that solatium amount shall be in addition to the compensation payable to any person whose land has been acquired.

(2) The Collector shall issue individual awards detailing the particulars of compensation payable and the details of payment of the compensation as specified in the First Schedule.

CHAPTER V

REHABILITATION AND RESETTLEMENT AWARD

Rehabilitation and Resettlement award for affected families by Collector.

30. (1) The Collector shall pass Rehabilitation and Resettlement Awards for each affected family in terms of the entitlements provided in the Second Schedule.

(2) The Rehabilitation and Resettlement Award shall include all of the following, namely:—

- (a) rehabilitation and resettlement amount payable to the family;
- (b) bank account number of the person to which the rehabilitation and resettlement award amount is to be transferred;
- (c) particulars of house site and house to be allotted, in case of displaced families;
- (d) particulars of land allotted to the displaced families;
- (e) particulars of one time subsistence allowance and transportation allowance in case of displaced families;
- (f) particulars of payment for cattle shed and petty shops;
- (g) particulars of one-time amount to artisans and small traders;
- (h) details of mandatory employment to be provided to the members of the affected families;
- (i) particulars of any fishing rights that may be involved;
- (j) particulars of annuity and other entitlements to be provided;
- (k) particulars of special provisions for the Scheduled Castes and the Scheduled Tribes to be provided:

Provided that in case any of the matters specified under clauses (a) to (k) are not applicable to any affected family the same shall be indicated as "not applicable".

Provision of infrastructural amenities in resettlement area.

31. (1) Every displaced family shall be resettled in a resettlement area.

(2) In every resettlement area referred to in sub-section (1), the Collector shall ensure the provision of all infrastructural and basic amenities specified in the Third Schedule.

Corrections to awards by Collector.

32. (1) The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority under section 58, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the appropriate Government.

33. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Adjournment of enquiry.

34. For the purpose of enquiries under this Act, the Collector shall have powers to summon and enforce the attendance of witnesses, including the parties interested of any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

Power to summon and enforce attendance of witnesses and production of documents.

35. The appropriate Government may at any time before the award is made by the Collector under section 29 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any findings or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit:

Power to call for records, etc.

Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard.

36. (1) The Awards shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and market value of the land and the assets attached thereto, solatium so determined and the apportionment of the compensation among the persons interested.

Awards of Collector when to be final.

(2) The Collector shall give immediate notice of his awards to such of the persons interested who are not present personally or through their representatives when the awards are made.

(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land finally acquired under this Act on the website created for this purpose.

37. (1) The Collector shall ensure that full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons within a period of three months for the compensation and a period of six months for the monetary part of rehabilitation and resettlement entitlements listed in the Second Schedule commencing from the date of the award made under section 29:

Power to take possession of land to be acquired.

Provided that the components of the Rehabilitation and Resettlement Package in the Second and Third Schedules that relate to infrastructural entitlements shall be provided within a period of eighteen months from the date of the award:

Provided further that in case of acquisition of land for irrigation or hydel project, being a public purpose, the rehabilitation and resettlement shall be completed six months prior to submergence of the lands proposed to be so acquired.

(2) The Collector shall be responsible for ensuring that the rehabilitation and resettlement process is completed in all its aspects.

(3) On the fulfilment of the condition provided in sub-sections (1) and (2), the Collector shall take possession of the land acquired, which shall, thereupon, vest absolutely in the Government, free from all encumbrances.

38. (1) In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of thirty days from the publication of the notice mentioned in section 21, take possession of any land needed for a public purpose and such land shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in case of urgency to acquire land in certain cases.

(2) The powers of the appropriate Government under sub-section (1) shall be restricted to the minimum area required for the defence of India or national security or for any emergencies arising out of natural calamities:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours notice of his intention to do so, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall tender payment of eighty per cent. of the compensation for such land as estimated by him to the person interested entitled thereto.

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1), sub-section (2) or sub-section (3) are applicable, the appropriate Government may direct that any or all of the provisions of Chapter II to Chapter VI shall not apply, and, if it does so direct, a declaration may be made under section 19 in respect of the land at any time after the date of the publication of the preliminary notification under sub-section (1) of section 11.

(5) An additional compensation of seventy-five per cent. of the market value as determined under the provisions of this Act, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section.

CHAPTER VI

PROCEDURE AND MANNER OF REHABILITATION AND RESETTLEMENT

Appointment
of
Administrator.

39. (1) Where the appropriate Government is satisfied that there is likely to be involuntary displacement of persons due to acquisition of land, then, the State Government shall, by notification, appoint in respect of that project, an officer not below the rank of Joint Collector or Additional Collector or Deputy Collector or equivalent official of Revenue Department to be the Administrator for Rehabilitation and Resettlement.

(2) The Administrator shall, with a view to enable him to function efficiently and to meet the special time-frame, be provided with such powers, duties and responsibilities as may be prescribed by the appropriate Government and provided with office infrastructure and be assisted by such officers and employees who shall be subordinate to him as the appropriate Government may decide.

(3) Subject to the superintendence, directions and control of the appropriate Government and the Commissioner for Rehabilitation and Resettlement, the formulation, execution and monitoring of the Rehabilitation and Resettlement Scheme shall vest in the Administrator.

Commissioner
for
rehabilitation
and
resettlement.

40. (1) The State Government shall appoint an officer of the rank of Commissioner or Secretary of that Government for rehabilitation and resettlement of affected families under this Act, to be called the Commissioner for Rehabilitation and Resettlement.

(2) The Commissioner shall be responsible for supervising the formulation of rehabilitation and resettlement schemes or plans and proper implementation of such schemes or plans.

(3) The Commissioner shall be responsible for the post-implementation social audit in consultation with the village panchayat in rural areas and municipality in urban areas.

Rehabilitation
and
resettlement
committee at
project level.

41. (1) Where land proposed to be acquired is equal to or more than one hundred acres, the appropriate Government shall constitute a Committee under the chairmanship of the Collector to be called the Rehabilitation and Resettlement Committee, to monitor and review the progress of implementation of the Rehabilitation and Resettlement scheme and to

carry out post-implementation social audits in consultation with the village panchayat in rural areas and municipality in urban areas.

(2) The Rehabilitation and Resettlement Committee shall include, apart from officers of the appropriate Government, the following members, namely:—

- (a) a representative of women residing in the affected area;
- (b) a representative each of the Scheduled Castes and the Scheduled Tribes residing in the affected area;
- (c) a representative of a voluntary organisation working in the area;
- (d) a representative of a nationalised bank;
- (e) the Land Acquisition Officer of the project;
- (f) the Chairpersons of the panchayats or municipalities located in the affected area or their nominees;
- (g) the Member of Parliament and Member of the Legislative Assembly of the concerned area or their nominees;
- (h) a representative of the Requiring Body; and
- (i) Administrator for Rehabilitation and Resettlement as the Member-Convenor.

(3) The procedure regulating the discharge of the process given in this section and other matters connected thereto of the Rehabilitation and Resettlement Committee shall be such as may be prescribed by the State Government.

42. (1) Where any person other than a specified person is purchasing land equal to or more than one hundred acres, in rural areas and fifty acres in urban areas, through private negotiations he shall file an application with the District Collector notifying him of—

- (a) intent to purchase;
- (b) purpose for which such purchase is being made;
- (c) particulars of lands to be purchased.

(2) It shall be the duty of the Collector to refer the matter to the Commissioner for the satisfaction of all relevant provisions under this Act related to rehabilitation and resettlement.

(3) Based upon the Rehabilitation and Resettlement Scheme approved by the Commissioner as per the provisions of this Act, the Collector shall pass individual awards covering Rehabilitation and Resettlement entitlements as per the provisions of this Act.

(4) No land use change shall be permitted if rehabilitation and resettlement is not complied with in full.

(5) Any purchase of land by a person other than specified persons without complying with the provisions of Rehabilitation and Resettlement Scheme shall be void *ab initio*.

Explanation.—For the purpose of this section, the expression “specified persons” includes any person other than—

- (a) appropriate Government;
- (b) Government company;
- (c) association of persons or trust or Society as registered under the Societies Registration Act, 1860, wholly or partially aided by the appropriate Government or controlled by the appropriate Government.

Provisions relating to rehabilitation and resettlement to apply in case of certain persons other than specified persons.

Establishment
of National
Monitoring
Committee
for
rehabilitation
and
resettlement.

Reporting
requirements.

Establishment
of Land
Acquisition,
Rehabilitation
and
Resettlement
Authority.

Composition
of Authority.

Qualifications
for
appointment
as Presiding
Officer.

Terms of
office of
Presiding
Officer.

Staff of
Authority.

CHAPTER VII

NATIONAL MONITORING COMMITTEE FOR REHABILITATION AND RESETTLEMENT

43. (1) The Central Government shall constitute a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act.

(2) The Committee may, besides having representation of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields.

(3) The procedures to be followed by the Committee and the allowances payable to the experts shall be such as may be prescribed.

(4) The Central Government shall provide officers and other employees to the Committee necessary for its efficient functioning.

44. The States and Union territories shall provide all the relevant information on the matters covered under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.

CHAPTER VIII

ESTABLISHMENT OF LAND ACQUISITION, REHABILITATION AND RESETTLEMENT AUTHORITY

45. (1) The appropriate Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement, establish, by notification, one or more Authorities to be known as "the Land Acquisition, Rehabilitation and Resettlement Authority" to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

(2) The appropriate Government shall also specify in the notification referred to in sub-section (1) the areas within which the Authority may exercise jurisdiction for entertaining and deciding the references made to it under section 58 or applications made by the applicant under second proviso to sub-section (1) of section 58.

46. (1) The Authority shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification, by the appropriate Government.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may authorise the Presiding Officer of one Authority to discharge also the functions of the Presiding Officer of another Authority.

47. (1) A person shall not be qualified for appointment as the Presiding Officer of an Authority unless,—

(a) he is, or has been, a Judge of a High Court; or

(b) he is or has been a District Judge for at least five years.

(2) A Presiding Officer shall be appointed by the appropriate Government in consultation with the Chief Justice of a High Court in whose jurisdiction the Authority is proposed to be established.

48. The Presiding Officer of an Authority shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

49. (1) The appropriate Government shall provide the Authority with a Registrar and such other officers and employees as that Government may think fit.

(2) The Registrar and other officers and employees of an Authority shall discharge their functions under the general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the Registrar and other officers and employees of an Authority shall be such as may be prescribed.

50. The salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Presiding Officer of an Authority, shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the said Presiding Officers shall be varied to their disadvantage after appointment.

Salary and allowances and other terms and conditions of service of Presiding Officers.

Filling up of vacancies.

51. If, for any reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of an Authority then the appropriate Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Authority from the stage at which the vacancy is filled.

52. (1) The Presiding Officer of an Authority may, by notice in writing under his hand addressed to the appropriate Government, resign his office:

Resignation and removal.

Provided that the Presiding Officer shall, unless he is permitted by the appropriate Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Presiding officer of an Authority shall not be removed from his office except by an order made by the appropriate Government on the ground of proved misbehaviour or incapacity after inquiry in the case of the Presiding Officer of an Authority made by a Judge of a High Court in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The appropriate Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

53. No order of the appropriate Government appointing any person as the Presiding Officer of an Authority shall be called in question in any manner, and no act or proceeding before an Authority shall be called in question in any manner on the ground merely of any defect in the constitution of an Authority.

Orders constituting Authority to be final and not to invalidate its proceedings.

54. (1) The Authority shall, for the purposes of its functions under this Act, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Powers of Authority and procedure before it.

- (a) summoning and enforcing the attendance of any person and examining him on oath;**
- (b) discovery and production of any document or other material object producible as evidence;**
- (c) receiving evidence on affidavits;**
- (d) requisitioning of any public record;**
- (e) issuing commission for the examination of witnesses;**
- (f) reviewing its decisions, directions and orders;**
- (g) any other matter which may be prescribed.**

(2) The Authority shall have original jurisdiction to adjudicate upon every reference made to it under section 58.

(3) The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Authority shall have the power to regulate its own procedure.

(4) The Authority shall, after receiving reference under section 58 and after giving notice of such reference to all the parties concerned and after affording opportunity of hearing to all parties, dispose of such reference within a period of six months from the date of receipt of such reference and make an award accordingly.

(5) The Authority shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

Proceedings before Authority to be judicial proceedings.

55. All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

45 of 1860.

Members and officers of Authority to be public servants.

56. The Member and officers of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

2 of 1974.

Jurisdiction of civil courts barred.

57. No civil court (other than High Court under article 226 or article 227 of the Constitution or the Supreme Court) shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter.

45 of 1860.

Reference to Authority.

58. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of fifteen days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

Collector's statement to Authority.

59. (1) In making the reference, the Collector shall state for the information of the Authority, in writing under his hand—

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under section 13, and the amount of compensation awarded under the provisions of this Act;

(d) the amount paid or deposited under any other provisions of this Act; and

(e) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) The statement under sub-section (1) shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the persons interested respectively.

60. The Authority shall thereupon cause a notice specifying the day on which the Authority will proceed to determine the objection, and directing their appearance before the Authority on that day, to be served on the following persons, namely: —

Service of notice by Authority.

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

61. The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interest of the persons affected by the objection.

Restriction on scope of proceedings.

62. Every such proceeding shall take place in public, and all persons entitled to practice in any Civil Court in the State shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Proceedings to be in public.

63. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Authority shall take into consideration—

Determination of award by Authority.

firstly, the market value as determined under section 26 and the award amount in accordance with the First and Second Schedules;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops and trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 19 and the time of the Collector's taking possession of the land; and

seventhly, any other ground which may be in the interest of equity, justice and beneficial to the affected families.

(2) In addition to the market value of the land, as above provided, the Authority shall in every case award an amount calculated at the rate of twelve per cent. per annum on such market value for the period commencing on and from the date of the publication of the preliminary notification under section 11 in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.— In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.

(3) In addition to the market value of the land as above provided, the Authority shall in every case award a solatium of one hundred per cent. over the total compensation amount.

Form of award.

64. (1) Every award under this Chapter shall be in writing signed by the Presiding Officer of the Authority, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of clause (2), and clause (9) respectively, of section 2 of the Code of Civil Procedure, 1908.

Costs.

65. (1) Every such award shall also state the amount of costs incurred in the proceeding under this Chapter, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the cost shall ordinarily be paid by the Collector, unless the Authority concerned is of the opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

66. If the sum, which in the opinion of the Authority concerned, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Authority concerned may direct that the Collector shall pay interest on such excess at the rate of nine per cent. per annum from the date on which he took possession of the land to the date of payment of such excess into Authority:

Provided that the award of the Authority concerned may also direct that where such excess or any part thereof is paid to the Authority after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent. per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Authority before the date of such expiry.

Redetermination of amount of compensation on the basis of the award of the Authority.

67. (1) Where in an award under this Chapter, the Authority concerned allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 23, the persons interested in all the other land covered by the same preliminary notification under section 11, and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector, by written application to the Collector within three months from the date of the award of the Authority concerned require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Authority:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority concerned.

5 of 1908.

68. The appropriate Government or a Requiring Body or any person aggrieved by the Award passed by an Authority under section 63 may file an appeal to the High Court within sixty days from the date of Award:

Appeal to
High Court.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Explanation.—For the purposes of this section, “High Court” means the High Court within the jurisdiction of which the land acquired or proposed to be acquired is situated.

CHAPTER IX

APPORTIONMENT OF COMPENSATION

69. When there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of
apportionment
to be
specified.

70. When the amount of compensation has been settled, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such disputes to the Authority.

Dispute as to
apportionment.

CHAPTER X

PAYMENT

71. (1) On making an award under section 29, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them by depositing the amount in their bank accounts unless prevented by some one or more of the contingencies mentioned in sub-section (2).

Payment of
compensation
or deposit of
same in
Authority.

(2) If the person entitled to compensation shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Authority to which a reference under section 58 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under sub-section (1) of section 58:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

72. (1) If any money is deposited in the Authority concerned under sub-section (2) of section 71 and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Authority concerned shall—

Investment of
money
deposited in
respect of
lands
belonging to
person
incompetent
to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held; or

(b) if such purchase cannot be effected forthwith, then in such Government of other approved securities as the Authority concerned shall think fit,

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession

of the said land, and such moneys shall remain so deposited and invested until the same be applied—

- (i) in the purchase of such other lands as aforesaid; or
- (ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of money deposited to which this section applies the Authority concerned shall order the costs of the following matters, including therein all reasonable charge and expenses incident thereon, to be paid by the Collector, namely:—

- (a) the costs of such investments as aforesaid;
- (b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of the Authority concerned of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of
money
deposited in
other cases.

73. When any money shall have been deposited in the Authority concerned under this Act for any cause other than the causes mentioned in section 72, the Authority may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and paid in such manner as it may consider will give the parties interested therein the same benefit from it as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of
interest.

74. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent. per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent. per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.

CHAPTER XI

TEMPORARY OCCUPATION OF LAND

Temporary
occupation of
waste or arable
land,
procedure
when
difference as
to
compensation
exists.

75. (1) Whenever it appears to the appropriate Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the appropriate Government may direct the Collector to procure the occupation and use of the same for such terms as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the person interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Authority.

Power to
enter and take
possession
and
compensation
on
restoration.

76. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 58, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the appropriate Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a company.

77. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Authority concerned.

Difference as to condition of land.

CHAPTER XII

OFFENCES AND PENALTIES

78. (1) If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be liable to be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one lakh rupees, or with both.

Punishment for false information, *mala fide* action, etc.

(2) Any rehabilitation and resettlement benefit availed of by making a false claim or through fraudulent means shall be liable to be recovered by the appropriate authority.

(3) Disciplinary proceedings may be drawn up by the disciplinary authority against a Government servant, who if proved to be guilty of a *mala fide* action in respect of any provision of this Act, shall be liable to such punishment including a fine as the disciplinary authority may decide.

79. If any person contravenes any of the provisions relating to payment of compensation or rehabilitation and resettlement, every such person shall be liable to a punishment of six months which may extend to three years or with fine or with both.

Penalty for contravention of provisions of Act.

80. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals and a Requiring Body; and

(b) “director”, in relation to a firm, means a partner in the firm.

81. (1) Where an offence under this Act has been committed by any department of the Government, the head of the department, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Government departments.

Provided that nothing contained in this section shall render any person liable to any punishment if such person proves that the offence was committed without his knowledge or that such person exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Cognizance of offences by court.

82. No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall be competent to try any offence punishable under this Act.

Offences to be non-cognizable.

83. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 2 of 1974. every offence under this Act shall be deemed to be non-cognizable.

Offences to be cognizable only on complaint filed by certain persons.

84. No court shall take cognizance of any offence under this Act which is alleged to have been committed by a Requiring Body except on a complaint in writing made by the Collector or any other officer authorised by the appropriate Government or any member of the affected family.

Magistrate to enforce surrender.

85. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate or to the Commissioner of Police, and such Magistrate or Commissioner, as the case may be, shall enforce the surrender of the land to the Collector.

Service of notice.

86. (1) Save as otherwise provided in section 60, the service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice, by the officer therein mentioned, and, in the case of any other notice, by order of the Collector.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult member of his family residing with him; and, if no such adult member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and also publish the same in at least two national daily newspapers and also on his website.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

87. (1) The appropriate Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the appropriate Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

88. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Acquisition of part of house or building.

Provided that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Authority concerned and shall not be taken possession of such land until after the question has been determined.

(2) In deciding on such a reference made under the proviso to sub-section (1), the Authority concerned shall have regard to the question whether the land proposed to be taken, is reasonably required for the full and unimpaired use of the house, manufactory or building.

(3) If, in the case of any claim under this Act, by a person interested, on account of the severing of the land to be acquired from his other land, the appropriate Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(4) In the case of any acquisition of land so required no fresh declaration or other proceedings under sections 11 to 19, (both inclusive) shall be necessary; but the Collector shall without delay furnish a copy of the order of the appropriate Government to the person interested, and shall thereafter proceed to make his award under section 23.

89. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Requiring Body, the charges of land incidental to such acquisition shall be defrayed from or by such fund or Requiring Body.

Acquisition of land at cost of a local authority or Requiring Body.

(2) In any proceeding held before a Collector or Authority concerned in such cases the local authority or Requiring Body concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Requiring Body shall be entitled to demand a reference to the Authority concerned under section 58.

90. No award or agreement made under this Act shall be chargeable with stamp duty, except under section 42, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Exemption from stamp duty and fees.

16 of 1908

91. In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908, including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.

Acceptance of certified copy as evidence.

92. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amendments.

Notice in case of suits for anything done in pursuance of Act.

93. No change from the purpose or related purposes for which the land is originally sought to be acquired shall be allowed.

No change of purpose to be allowed.

94. No change of ownership without specific permission from the appropriate Government shall be allowed.

No change of ownership without permission to be allowed.

Return of unutilised land.

95. When any land or part thereof, acquired under this Act remains unutilised for a period of ten years from the date of taking over the possession, the same shall return to the Land Bank of the appropriate Government by reversion.

Difference in price of land when transferred for higher consideration to be shared.

96. Whenever the ownership of any land acquired under this Act is transferred to any person for a consideration, without any development having taken place on such land, twenty per cent. of the appreciated land value shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired.

Provisions to be in addition to existing laws.

97. The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force.

Provisions of this Act not to apply in certain cases or to apply with certain modifications.

98. (1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of section 99 the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government may, by notification, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

Power to amend Schedule.

99. (1) The Central Government may, by notification, amend or alter any of the Schedules to this Act.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

Power of State Legislatures to enact any law more beneficial to affected families.

100. Nothing in this Act shall prevent any State from enacting any law to enhance or add to the entitlements enumerated under this Act which confers higher compensation than payable under this Act or make provisions for rehabilitation and resettlement which is more beneficial than provided under this Act.

Option to affected families to avail better compensation and rehabilitation and resettlement.

101. (1) Where a State law or a policy framed by the Government of a State provides for a higher compensation than calculated under this Act for the acquisition of land, the affected persons or his family or member of his family may at their option opt to avail such higher compensation and rehabilitation and resettlement under such State law or such policy of the State.

(2) Where a State law or a policy framed by the Government of a State offers more beneficial rehabilitation and resettlement provisions under that Act or policy than under this

Act, the affected persons or his family or member of his family may at his option opt to avail such rehabilitation and resettlement provisions under such State law or such policy of the State instead of under this Act.

102. (1) Subject to the other provisions of this Act, the appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may provide for all or any of the following matters, namely:—

- (a) prior information process under the first proviso to sub-clause (vii) of clause (za) of section 3;
- (b) the manner and the time limit for carrying out social impact assessment study under sub-section (1) of section 4;
- (c) the manner of preparing and publishing social impact assessment study reports under sub-section (1) of section 6;
- (d) the manner of obtaining consent of affected families under the proviso to sub-section (4) of section 8;
- (e) the manner and time for conducting survey and undertaking census under sub-section (1) of section 17;
- (f) the manner of preparing draft Rehabilitation and Resettlement Scheme under sub-section (2) of section 17;
- (g) the manner of conducting public hearing under sub-section (5) of section 17;
- (h) the manner of depositing amount by the Requiring Body under second proviso to sub-section (2) of section 19;
- (i) the manner in which and the period within which any excess amount paid may be recovered under sub-section (3) of section 32;
- (j) the powers, duties and responsibilities of Administrator under sub-section (2) of section 39;
- (k) the procedure of Rehabilitation and Resettlement Committee under sub-section (3) of section 41;
- (l) the procedure to be followed by the Rehabilitation and Resettlement Committee and allowances to be paid to the experts under sub-section (3) of section 43;
- (m) the salaries and allowances and other conditions of service of the Registrar and other officers and employees of an Authority under sub-section (3) of section 49;
- (n) the salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer of an Authority under section 50;
- (o) any other matter under clause (g) of sub-section (1) of section 54;
- (p) form of Development Plan for the displaced Scheduled Castes and Scheduled Tribes under paragraph 11 of the Second Schedule;
- (q) any other matter which is required to be or may be specified under this Act.

103. Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such

Power of appropriate Government to make rules.

Rules made by Central Government to be laid before Parliament.

modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Rules made by State Government to be laid before State Legislature.

104. Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Previous publication of rules made by Central and State Government.

105. The power to make rules by the Central or State Government under this Act shall be subject to the condition of the rules, being made after previous publication.

Power to remove difficulties.

106. (1) If any difficulty arises in giving effect to the provisions of this Part, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament

Repeal and saving.

107. (1) The Land Acquisition Act, 1894 is hereby repealed.

1 of 1894.

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeals.

10 of 1897.

THE FIRST SCHEDULE

[See section 29 (2)]

COMPENSATION FOR LAND OWNERS

The following components shall constitute the minimum compensation package to be given to those whose land is acquired.

Serial number	Component of compensation package in respect of land acquired under the Act	Manner of determination of value	Date of deter- mination of value
(1)	(2)	(3)	(4)
1.	Market value of land	To be determined as provided under section 26.	
2.	Factor by which the market value is to be multiplied in the case of rural areas	2 (Two).	
3.	Factor by which the market value is to be multiplied in the case of urban areas	1 (One).	
4.	Value of assets attached to land or building	To be determined as provided under section 28.	
5.	Solatium	Equivalent to one hundred per cent. of the market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 for rural areas or serial number 3 for urban areas plus value of assets attached to land or building against serial number 4 under column (2).	
6.	Final award in rural areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).	
7.	Final award in urban areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 3 plus value of assets attached to land or building mentioned against serial number	

(1)	(2)	(3)	(4)
		4 under column (2) plus solatium mentioned against serial number 5 under column (2).	

8. Other component, if any, to be included

NOTE.—The date on which values mentioned under column (2) are determined should be indicated under column (4) against each serial number.

THE SECOND SCHEDULE

[See sections 30 (1), 37(1) and 98(3)]

ELEMENTS OF REHABILITATION AND RESETTLEMENT ENTITLEMENTS FOR ALL THE AFFECTED FAMILIES (BOTH LAND OWNERS AND THE FAMILIES WHOSE LIVELIHOOD IS PRIMARILY DEPENDENT ON LAND ACQUIRED) IN ADDITION TO THOSE PROVIDED IN THE FIRST SCHEDULE.

Serial number	Elements of Rehabilitation and Resettlement Entitlements	Entitlement/provision	Whether provided or not (if pro- vided, details to be given)
(1)	(2)	(3)	(4)
1.	<p>Provision of housing units in case of displacement</p>	<p>(1) If a house is lost in rural areas, a constructed house shall be provided as per the Indira Awas Yojana specifications. If a house is lost in urban areas, a constructed house shall be provided, which will be not less than 50 sq mts in plinth area.</p> <p>(2) The benefits listed above shall also be extended to any affected family which is without homestead land and which has been residing in the area continuously for a period of not less than three years preceding the date of notification of the affected area and which has been involuntarily displaced from such area:</p> <p>Provided that any such family in urban areas which opts not to take the house offered, shall get a one-time financial assistance for house construction, which shall not be less than one lakh fifty thousand rupees:</p> <p>Provided further that if any affected family in rural areas so prefers, the equivalent cost of the house may be offered in lieu of the constructed house:</p> <p>Provided also that no family affected by acquisition shall be given more than one house under the provisions of this Act.</p>	

(1)	(2)	(3)	(4)
		<i>Explanation.</i> —The houses in urban areas may, if necessary, be provided in multi-storied building complexes.	
2.	Land for Land	<p>In the case of irrigation project, each affected family owning agricultural land in the affected area and whose land has been acquired or lost, or who has, as a consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer or landless, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, a minimum of one acre of land in the command area of the project for which the land is acquired:</p> <p>Provided that in every project those persons losing land and belonging to the Scheduled Castes or Scheduled Tribes will be provided land equivalent to land acquired or two and a one-half acres, whichever is lower:</p> <p>Provided further that where the land is acquired for urbanisation purposes, twenty per cent. of the developed land will be reserved and offered to land owning project affected families, in proportion to the area of their land acquired and at a price equal to cost of acquisition and the cost of development.</p> <p>In case the project affected family wishes to avail of this offer, an equivalent amount will be deducted from the land acquisition compensation package payable to it.</p>	
3.	Choice of Annuity or Employment	<p>The appropriate Government shall ensure that the affected families are provided with the following options:</p> <p>(a) where jobs are created through the project, mandatory employment at a rate not lower than the minimum wages</p>	

(1)	(2)	(3)	(4)
		provided for in any other law for the time being in force, to at least one member per affected family in the project or arrange for a job in such other project as may be required; or	
4.	Subsistence grant for displaced families for a period of one year	(b) one time payment of five lakhs rupees per affected family; or (c) annuity policies that shall pay not less than two thousand rupees per month per family for twenty years, with appropriate indexation to the Consumer Price Index for Agricultural Labourers.	
5.	Transportation cost for displaced families	Each affected family which is displaced from the land acquired shall be given a monthly subsistence allowance equivalent to three thousand rupees per month for a period of one year from the date of award. In addition to this amount, the Scheduled Castes and the Scheduled Tribes displaced from Scheduled Areas shall receive an amount equivalent to fifty thousand rupees.	
6.	Cattle shed/petty shops cost	Each affected family which is displaced shall get a one-time financial assistance of fifty thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.	
7.	One time grant to artisan, small traders and certain others	Each affected family having cattle or having a petty shop shall get one-time financial assistance of such amount as the appropriate Government may, by notification, specify subject to a minimum of twenty-five thousand rupees for construction of cattle shed or petty shop as the case may be.	
		Each affected family of an artisan, small trader or self-employed person or an affected family which owned non-agricultural land or commercial, industrial or	

(1)	(2)	(3)	(4)
		institutional structure in the affected area, and which has been involuntarily displaced from the affected area due to land acquisition, shall get one-time financial assistance of such amount as the appropriate Government may, by notification, specify subject to a minimum of twenty-five thousand rupees.	
8.	Fishing rights	In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the appropriate Government.	
9.	One-time Resettlement Allowance	Each affected family shall be given a one-time "Resettlement Allowance" of fifty thousand rupees only.	
10.	Stamp duty and registration fee	<p>(1) The stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the Requiring Body.</p> <p>(2) The land for house allotted to the affected families shall be free from all encumbrances.</p> <p>(3) The land or house allotted may be in the joint names of wife and husband of the affected family.</p>	
11.	Special provisions for Scheduled Castes and Scheduled Tribes	<p>(1) In case of a project involving land acquisition on behalf of a Requiring Body which involves involuntary displacement of the Scheduled Castes or the Scheduled Tribes families, a Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land rights due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition.</p> <p>(2) The Development Plan shall also contain a programme for development of alternate fuel,</p>	

(1)	(2)	(3)	(4)
		fodder and non-timber forest produce resources on non-forest lands within a period of five years sufficient to meet the requirements of tribal communities as well as the Scheduled Castes.	
		(3) The concerned Gram Sabha or the Panchayats at the appropriate level in the Scheduled Areas under the Fifth Schedule to the Constitution or, as the case may be, Councils in the Sixth Scheduled Areas shall be consulted in all cases of land acquisition in such areas, including acquisition in case of urgency, before issue of a notification under this Act, or any other Central Act or a State Act for the time being in force as per the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996) and other relevant laws.	
		(4) In case of land being acquired from members of the Scheduled Castes or the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families at the outset as first instalment and the rest shall precede the taking over of the possession of the land.	
		(5) The Scheduled Tribes affected families shall be resettled preferably in the same Scheduled Area in a compact block, so that they can retain their ethnic, linguistic and cultural identity.	
		(6) The resettlement areas predominantly inhabited by the Scheduled Castes and the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government, free of cost for community and social gatherings.	
		(7) In case of a project involving land acquisition on behalf of a Requiring Body, the affected families belonging to the Scheduled Castes and the Scheduled Tribes resettled out of the district of acquisition will get	

(1)	(2)	(3)	(4)
		twenty-five per cent. higher monetary benefits under Rehabilitation and Resettlement Scheme.	
12.	Reservation and other benefits	(8) Any alienation of tribal lands or lands belonging to members of the Scheduled Castes in disregard of the laws and regulations for the time being in force shall be treated as null and void; and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be available to the original tribal land owners or land owners belonging to the Scheduled Castes. (9) The affected Scheduled Tribes, other traditional forest-dwellers and the Scheduled Castes families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects. (10) Where the affected Scheduled Castes and Scheduled Tribes are relocated outside of the district then they shall be paid an additional twenty-five per cent. Rehabilitation and Resettlement benefits to which they are entitled in monetary terms along with a one-time entitlement of fifty thousand rupees.	All benefits, including the reservation benefits available to the Scheduled Tribes and the Scheduled Castes in the affected areas, shall continue in the resettlement area. Wherever the affected families belonging to the Scheduled Tribes who are residing in the Fifth Schedule or the Sixth Schedule Areas are relocated outside these areas, all the statutory safeguards, entitlements and benefits being enjoyed by them shall be extended to the area to where they are resettled regardless of whether the resettlement area is a Fifth Schedule or Sixth Schedule Area or not.
			NOTE.—In case any element of rehabilitation and resettlement package is not provided, the same should be indicated as “NIL” under column (4) and reasons therefor to be given.

NOTE.—In case any element of rehabilitation and resettlement package is not provided, the same should be indicated as “NIL” under column (4) and reasons therefor to be given.

THE THIRD SCHEDULE

[See sections 31(2), 37(1) and 98(3)]

PROVISION OF INFRASTRUCTURAL AMENITIES

For resettlement of populations, the following infrastructural facilities and basic minimum amenities are to be provided at the cost of the Requisitioning Authority to ensure that the resettled population in the new village or colony can secure for themselves a reasonable standard of community life and can attempt to minimise the trauma involved in displacement.

A reasonably habitable and planned settlement would have, as a minimum, the following facilities and resources, as appropriate:

Serial number	Component of infrastructure amenities provided/proposed to be provided by the acquirer of land	Details of infrastructure amenities provided by the acquirer of land
(1)	(2)	(3)
1.	Roads within the resettled villages and an all-weather road link to the nearest pucca road, passages and easement rights for all the resettled families be adequately arranged.	
2.	Proper drainage as well as sanitation plans executed before physical resettlement.	
3.	One or more assured sources of safe drinking water for each family as per the norms prescribed by the Government of India.	
4.	Provision of drinking water for cattle.	
5.	Grazing land as per proportion acceptable in the State.	
6.	A reasonable number of Fair Price Shops.	
7.	Panchayat Ghars, as appropriate.	
8.	Village level Post Offices, as appropriate, with facilities for opening saving accounts.	
9.	Appropriate seed-cum-fertilizer storage facility if needed.	
10.	Efforts must be made to provide basic irrigation facilities to the agricultural land allocated to the resettled families if not from the irrigation project, then by developing a cooperative or under some Government scheme or special assistance.	
11.	All new villages established for resettlement of the displaced persons shall be provided with suitable transport facility which must include public transport facilities through local bus services with the nearby growth centres/urban localities.	
12.	Burial or cremation ground, depending on the caste-communities at the site and their practices.	
13.	Facilities for sanitation, including individual toilet points.	

(1)	(2)	(3)
14.	Individual single electric connections (or connection through non-conventional sources of energy like solar energy), for each household and for public lighting.	
15.	Anganwadi's providing child and mother supplemental nutritional services.	
16.	School as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009);	
17.	Sub-health centre within two kilometres range.	
18.	Primary Health Centre as prescribed by the Government of India.	
19.	Playground for children.	
20.	One community centre for every hundred families.	
21.	Places of worship and chowpal/tree platform for every fifty families for community assembly, of numbers and dimensions consonant with the affected area.	
22.	Separate land must be earmarked for traditional tribal institutions.	
23.	The forest dweller families must be provided, where possible, with their traditional rights on non-timber forest produce and common property resources, if available close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of eviction, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood.	
24.	Appropriate security arrangements must be provided for the settlement, if needed.	
25.	Veterinary service centre as per norms.	

NOTE.—1. Details of each component of infrastructural amenities mentioned under column (2) against serial numbers 1 to 25 should be indicated by the acquirer of land under column (3).

NOTE.—2. In case the acquirer of land cannot provide the component of infrastructural amenities mentioned under column (2), it shall indicate "NOT PROVIDED" under column (3) with the reasons therefor.

THE FOURTH SCHEDULE

*(See section 98)*LIST OF ENACTMENTS REGULATING LAND ACQUISITION AND
REHABILITATION AND RESETTLEMENT

1. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).
2. The Atomic Energy Act, 1962 (33 of 1962).
3. The Cantonments Act, 2006 (41 of 2006).
4. The Damodar Valley Corporation Act, 1948 (14 of 1948).
5. The Indian Tramways Act, 1886 (11 of 1886).
6. The Land Acquisition (Mines) Act, 1885 (18 of 1885).
7. The Metro Railways (Construction of Works) Act, 1978 (33 of 1978).
8. The National Highways Act, 1956 (48 of 1956).
9. The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962).
10. The Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952).
11. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (60 of 1948).
12. The Special Economic Zones Act, 2005 (28 of 2005).
13. The Coal Bearing Areas Acquisition and Development Act, 1957 (20 of 1957).
14. The Electricity Act, 2003 (36 of 2003).
15. The Railways Act, 1989 (24 of 1989).
16. The Works of Defence Act, 1903 (7 of 1903).

STATEMENT OF OBJECTS AND REASONS

The Land Acquisition Act, 1894 is the general law relating to acquisition of land for public purposes and also for companies and for determining the amount of compensation to be made on account of such acquisition. The provisions of the said Act have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private land and property. The Act does not address the issues of rehabilitation and resettlement to the affected persons and their families.

2. The definition of the expression "public purpose" as given in the Act is very wide. It has, therefore, become necessary to re-define it so as to restrict its scope for acquisition of land for strategic purposes vital to the State, and for infrastructure projects where the benefits accrue to the general public. The provisions of the Act are also used for acquiring private lands for companies. This frequently raises a question mark on the desirability of such State intervention when land could be arranged by the company through private negotiations on a "willing seller-willing buyer" basis, which could be seen to be a more fair arrangement from the point of view of the land owner. In order to streamline the provisions of the Act causing less hardships to the owners of the land and other persons dependent upon such land, it is proposed to repeal the Land Acquisition Act, 1894 and to replace it with adequate provisions for rehabilitation and resettlement for the affected persons and their families.

3. There have been multiple amendments to the Land Acquisition Act, 1894 not only by the Central Government but by the State Governments as well. Further, there has been heightened public concern on land acquisition, especially multi-cropped irrigated land and there is no central law to adequately deal with the issues of rehabilitation and resettlement of displaced persons. As land acquisition and rehabilitation and resettlement need to be seen as two sides of the same coin, a single integrated law to deal with the issues of land acquisition and rehabilitation and resettlement has become necessary. Hence the proposed legislation proposes to address concerns of farmers and those whose livelihoods are dependent on the land being acquired, while at the same time facilitating land acquisition for industrialization, infrastructure and urbanization projects in a timely and transparent manner.

4. Earlier, the Land Acquisition (Amendment) Bill, 2007 and Rehabilitation and Resettlement Bill, 2007 were introduced in the Lok Sabha on 6th December, 2007 and were referred to the Parliamentary Standing Committee on Rural Development for Examination and Report. The Standing Committee presented its reports (the 39th and 40th Reports) to the Lok Sabha on 21st October, 2008 and laid the same in the Rajya Sabha on the same day. Based on the recommendations of the Standing Committee and as a consequence thereof, official amendments to the Bills were proposed. The Bills, alongwith the official amendments, were passed by the Lok Sabha on 25th February, 2009, but the same lapsed with the dissolution of the 14th Lok Sabha.

5. It is now proposed to have a unified legislation dealing with acquisition of land, provide for just and fair compensation and make adequate provisions for rehabilitation and resettlement mechanism for the affected persons and their families. The Bill thus provides for repealing and replacing the Land Acquisition Act, 1894 with broad provisions for adequate rehabilitation and resettlement mechanism for the project affected persons and their families.

6. Provision of public facilities or infrastructure often requires the exercise of powers by the State for acquisition of private property leading to displacement of people, depriving them of their land, livelihood and shelter, restricting their access to traditional resource base and uprooting them from their socio-cultural environment. These have traumatic, psychological and socio-cultural consequences on the affected population which call for protecting their rights, particularly in case of the weaker sections of the society including members of the Scheduled Castes (SCs), the Scheduled Tribes (STs), marginal farmers and their families.

7. There is an imperative need to recognise rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of affected persons and families. Additional benefits beyond monetary compensation have to be provided to families affected adversely by involuntary displacement. The plight of those who do not have rights over the land on which they are critically dependent for their subsistence is even worse. This calls for a broader concerted effort on the part of the planners to include in the displacement, rehabilitation and resettlement process framework, not only for those who directly lose their land and other assets but also for all those who are affected by such acquisition. The displacement process often poses problems that make it difficult for the affected persons to continue their traditional livelihood activities after resettlement. This requires a careful assessment of the economic disadvantages and the social impact arising out of displacement. There must also be holistic effort aimed at improving the all-round living standards of the affected persons and families.

8. A National Policy on Resettlement and Rehabilitation for Project Affected Families was formulated in 2003, which came into force with effect from February, 2004. Experience gained in implementation of this policy indicates that there are many issues addressed by the policy which need to be reviewed. There should be a clear perception, through a careful quantification of the costs and benefits that will accrue to society at large, of the desirability and justifiability of each project. The adverse impact on affected families-economic, environmental, social and cultural-must be assessed in participatory and transparent manner. A national rehabilitation and resettlement framework thus needs to apply to all projects where involuntary displacement takes place.

9. The National Rehabilitation and Resettlement Policy, 2007 has been formulated on these lines to replace the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003. The new policy has been notified in the Official Gazette and has become operative with effect from the 31st October, 2007. Many State Governments have their own Rehabilitation and Resettlement Policies. Many Public Sector Undertakings or agencies also have their own policies in this regard.

10. The law would apply when Government acquires land for its own use, hold and control, or with the ultimate purpose to transfer it for the use of private companies for stated public purpose or for immediate and declared use by private companies for public purpose. Only rehabilitation and resettlement provisions will apply when private companies buy land for a project, more than 100 acres in rural areas, or more than 50 acres in urban areas. The land acquisition provisions would apply to the area to be acquired but the rehabilitation and resettlement provisions will apply to the entire project area even when private company approaches Government for partial acquisition for public purpose.

11. "Public purpose" has been comprehensively defined, so that Government intervention in acquisition is limited to defence, certain development projects only. It has also been ensured that consent of at least 80 per cent. of the project affected families is to be obtained through a prior informed process. Acquisition under urgency clause has also been limited for the purposes of national defence, security purposes and Rehabilitation and Resettlement needs in the event of emergencies or natural calamities only.

12. To ensure food security, multi-crop irrigated land shall be acquired only as a last resort measure. An equivalent area of culturable wasteland shall be developed, if multi-crop land is acquired. In districts where net sown area is less than 50 per cent. of total geographical area, no more than 10 per cent. of the net sown area of the district will be acquired.

13. To ensure comprehensive compensation package for the land owners a scientific method for calculation of the market value of the land has been proposed. Market value calculated will be multiplied by a factor of two in the rural areas. Solatium will also be increased up to 100 per cent. of the total compensation. Where land is acquired for urbanization, 20 per cent. of the developed land will be offered to the affected land owners.

14. Comprehensive rehabilitation and resettlement package for land owners including subsistence allowance, jobs, house, one acre of land in cases of irrigation projects, transportation allowance and resettlement allowance is proposed.

15. Comprehensive rehabilitation and resettlement package for livelihood losers including subsistence allowance, jobs, house, transportation allowance and resettlement allowance is proposed.

16. Special provisions for Scheduled Castes and the Scheduled Tribes have been envisaged by providing additional benefits of 2.5 acres of land or extent of land lost to each affected family; one time financial assistance of Rs. 50,000/-; twenty-five per cent. additional rehabilitation and resettlement benefits for the families settled outside the district; free land for community and social gathering and continuation of reservation in the resettlement area, etc.

17. Twenty-five infrastructural amenities are proposed to be provided in the resettlement area including schools and play grounds, health centres, roads and electric connections, assured sources of safe drinking water, Panchayat Ghars, Anganwadis, places of worship, burial and cremation grounds, village level post offices, fair price shops and seed-cum-fertilizers storage facilities.

18. The benefits under the new law would be available in all the cases of land acquisition under the Land Acquisition Act, 1894 where award has not been made or possession of land has not been taken.

19. Land that is not used within ten years in accordance with the purposes, for which it was acquired, shall be transferred to the State Government's Land Bank. Upon every transfer of land without development, twenty per cent. of the appreciated land value shall be shared with the original land owners.

20. The provisions of the Bill have been made fully compliant with other laws such as the Panchayats (Extension to the Scheduled Areas) Act, 1996; the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Land Transfer Regulations in Fifth Scheduled Areas.

21. Stringent and comprehensive penalties both for the companies and Government in cases of false information, *mala fide* action and contravention of the provisions of the propose legislation have been provided.

22. Certain Central Acts dealing with the land acquisition have been enlisted in the Bill. The provisions of the Bill are in addition to and not in derogation of these Acts. The provisions of this Act can be applied to these existing enactments by a notification of the Central Government.

23. The Bill also provides for the basic minimum requirements that all projects leading to displacement must address. It contains a saving clause to enable the State Governments, to continue to provide or put in place greater benefit levels than those prescribed under the Bill.

24. The Bill would provide for the basic minimum that all projects leading to displacement must address. A Social Impact Assessment (SIA) of proposals leading to displacement of people through a participatory, informed and transparent process

involving all stake-holders, including the affected persons will be necessary before these are acted upon. The rehabilitation process would augment income levels and enrich quality of life of the displaced persons, covering rebuilding socio-cultural relationships, capacity building and provision of public health and community services. Adequate safeguards have been proposed for protecting rights of vulnerable sections of the displaced persons.

25. The Bill seeks to achieve the above objects. The notes on clauses explain the various provisions contained in the Bill.

NEW DELHI;
The 5th September, 2011.

JAIRAM RAMESH.

Notes on clauses

Clause 1 seeks to provide the short title, extent and commencement of the proposed legislation.

Clause 2 seeks to provide the application of the proposed legislation.

Clause 3 seeks to provide the definitions of the various expressions used in the proposed legislation.

Clause 4 seeks to provide preparation of Social Impact Assessment Study whenever the appropriate Government intends to acquire land for a public purpose taking into consideration amongst other things, the impact that the project is likely to have on various components such as public and community properties, assets and infrastructure particularly roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions, burial and cremation grounds.

Clause 5 seeks to provide public hearing for Social Impact Assessment to ascertain the views of the affected families and to be recorded in the Social Impact Assessment Report.

Clause 6 seeks to provide publication of Social Impact Assessment study in the affected area and its uploading on a website created especially for this purpose.

Clause 7 seeks to provide appraisal of Social Impact Assessment Report by an independent multi-disciplinary expert group.

Clause 8 seeks to provide constitution of a committee under the Chairmanship of Chief Secretary of the State or Union territory or an officer of equivalent rank nominated by the appropriate Government to examine proposals for land acquisition and the Social Impact Assessment Report when the land sought to be acquired is more than one hundred acres or more.

Clause 9 seeks to provide exemption from Social Impact Assessment when the land is proposed to be acquired invoking the urgency provisions under section 38 of the Act.

Clause 10 seeks to provide special provisions to safeguard food security and puts the conditionality in respect of acquisition of irrigated and multi-cropped land.

Clause 11 seeks to provide publication of preliminary notification along with details of the land to be acquired in rural and urban areas and power of officers thereupon.

Clause 12 seeks to provide preliminary survey of land and power of officers to carry out survey.

Clause 13 seeks to provide payment for damage at the time of entry under clause 12 for any damage caused.

Clause 14 seeks to provide lapse of Social Impact Assessment Report in case preliminary notification under clause 11 is not issued within twelve months from the date of appraisal of the Social Impact Assessment report submitted by the Expert Committee.

Clause 15 seeks to provide rescission of preliminary notification where no declaration is made under clause 19 within twelve months from the date of preliminary notification.

Clause 16 seeks to provide hearing of objections of any person interested in any land which has been notified under sub-clause (1) of clause 11.

Clause 17 seeks to provide preparation of Rehabilitation and Resettlement Scheme by the Administrator upon the publication of the preliminary notification under sub-clause (1) of clause 11 by the Collector.

Clause 18 seeks to provide review of the Resettlement and Rehabilitation Scheme by the Collector of the draft scheme submitted by the Administrator.

Clause 19 seeks to provide publication of declaration and summary of Rehabilitation and Resettlement when the appropriate Government is satisfied, after considering the report, if any, made under sub-clause (2) of clause 16, that any particular land is needed for a public purpose.

Clause 20 seeks to provide that the land to be marked out measured and planned including marking of specific areas.

Clause 21 seeks to provide issuing notices to persons interested in the land to appear personally or by agent or pleader before the Collector at a time and place mentioned in the public notice.

Clause 22 seeks to provide power to require and enforce the making of statements as to names and interests.

Clause 23 seeks to provide enquiry into the objections, if any, and land acquisition award by Collector.

Clause 24 seeks to provide that land acquisition process under the Land Acquisition Act, 1894 shall be deemed to have lapsed in certain cases where the award has not been made and possession of land has not been taken before the commencement of the proposed legislation.

Clause 25 seeks to provide period within which an award shall be made by the Collector.

Clause 26 seeks to provide criteria in assessing and determining the market value of the land by Collector.

Clause 27 seeks to provide determination of amount of compensation by the Collector after having determined the market value of the land to be acquired.

Clause 28 seeks to provide determination of value of things attached to land or building.

Clause 29 seeks to provide award of solatium by the Collector after having determined the total compensation to be paid to arrive at the final award.

Clause 30 seeks to provide Rehabilitation and Resettlement award for affected families by the Collector in terms of the entitlements provided in the Second Schedule.

Clause 31 seeks to provide provision of infrastructural amenities in resettlement area by the Collector as per the basic amenities specified in the Third Schedule.

Clause 32 seeks to provide corrections to awards by the Collector for any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority.

Clause 33 seeks to provide adjournment of enquiry by the Collector for any cause he thinks fit, from time to time.

Clause 34 seeks to provide power to summon and enforce attendance of witnesses and production of documents by the Collector.

Clause 35 seeks to provide power to call for records, etc., by the appropriate Government at any time before the award is made by the Collector.

Clause 36 seeks to provide that awards of Collector shall be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and market value of the land and the assets attached thereto, solatium so determined and the apportionment of the compensation among the persons interested.

Clause 37 seeks to provide power to take possession of land to be acquired.

Clause 38 seeks to provide special powers in case of urgency to acquire land in certain cases.

Clause 39 seeks to provide appointment of Administrator where the appropriate Government is satisfied that there is likely to be involuntary displacement of persons due to acquisition of land.

Clause 40 seeks to provide for appointment of Commissioner for Rehabilitation and Resettlement by the State Government for rehabilitation and resettlement of affected families under the proposed legislation.

Clause 41 seeks to provide Rehabilitation and Resettlement Committee at Project Level where land proposed to be acquired is equal to or more than one hundred acres.

Clause 42 seeks to provide provisions relating to rehabilitation and resettlement to apply in case of certain persons other than specified persons for purchasing land equal to or more than one hundred acres, in rural areas and fifty acres in urban areas, through private negotiations.

Clause 43 seeks to provide establishment of National Monitoring Committee for Rehabilitation and Resettlement by the Central Government for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under the proposed legislation.

Clause 44 seeks to provide reporting requirements by the States and Union territories to provide all the relevant information on the matters covered under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.

Clause 45 seeks to provide establishment of Land Acquisition, Rehabilitation and Resettlement Authority by the appropriate Government for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement.

Clause 46 seeks to provide composition of Land Acquisition, Rehabilitation and Resettlement Authority.

Clause 47 seeks to provide qualifications for appointment as Presiding Officer of the Land Acquisition, Rehabilitation and Resettlement Authority.

Clause 48 seeks to provide terms of office of Presiding Officer. The Presiding Officer shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

Clause 49 seeks to provide staff of the Authority.

Clause 50 seeks to provide salary and allowances and other terms and conditions of service of Presiding Officer of the Authority.

Clause 51 seeks to provide for filling up of vacancies, in case in any vacancy occurs in the office of Presiding Officer of Land Acquisition, Rehabilitation and Resettlement Authority.

Clause 52 seeks to provide the manner and procedure of resignation and removal of Presiding Officer of Land Acquisition, Rehabilitation and Resettlement Authority.

Clause 53 seeks to provide that the orders constituting Authority shall be final.

Clause 54 seeks to provide powers of Land Acquisition, Rehabilitation and Resettlement Authority.

Clause 55 seeks to provide that all the proceedings before the Authority shall deem to be judicial proceedings.

Clause 56 seeks to provide that the Presiding Officers and officers shall deemed to be public servants.

Clause 57 seeks to bar jurisdiction of civil courts in respect of matters in which the Land Acquisition, Rehabilitation and Resettlement Authority or the Collector is empowered under the proposed legislation.

Clause 58 seeks to provide that any person who has not accepted the award may refer the matter to Land Acquisition, Rehabilitation and Resettlement Authority through the District Collector.

Clause 59 seeks to provide that the Collector shall file statement for the information of the Land Acquisition, Rehabilitation and Resettlement Authority under clause 58.

Clause 60 seeks to provide the manner in which the Authority cause a notice be served on the applicant, persons interested in the objection and District Collector.

Clause 61 seeks to provide that the scope of the enquiry in every such proceeding shall be restricted to a consideration of the interest of the persons affected by the objection.

Clause 62 seeks to provide that proceeding of the Authority shall take place in public, and all persons entitled to practice in any Civil Court in the State shall be entitled to appear, plead and act in such proceeding.

Clause 63 seeks to provide for the manner in which the amount of compensation is to be determined for the land to be acquired.

Clause 64 seeks to provide the form of award. It provides that the award made by the Presiding Officer shall deemed to be a decree within the meaning of the Code of Civil Procedure, 1908.

Clause 65 seeks to provide that the cost shall be paid by the Collector when the award of Collector is not upheld.

Clause 66 seeks to provide that the Collector may be directed to pay interest on excess compensation when award of the Authority is in excess of the award of the Collector.

Clause 67 seeks to provide for the manner of redetermination of amount of compensation on the basis of the award of the Land Acquisition, Rehabilitation and Resettlement Authority.

Clause 68 seeks to provide that any person aggrieved from the award passed by the Authority can file appeal in the High Court within sixty days of the award of the Authority.

Clause 69 seeks to provide that the apportionment of compensation in the award shall be conclusive evidence of the correctness of the apportionment.

Clause 70 seeks to provide that any dispute as to apportionment can be referred to the Authority for settlement.

Clause 71 seeks to provide that the payment of compensation awarded by the Collector shall be paid by depositing the amount in the bank accounts of the awardees and in case the awardees is not ready to accept the same, amount will be deposited with the Authority.

Clause 72 seeks to provide that the Authority can order investment of the money deposited with it in respect of lands belonging to person incompetent to alienate.

Clause 73 seeks to provide that the Authority can order the investment of amount deposited with it in government or other approved securities as it may deem fit, in cases in other than those mentioned clause 72.

Clause 74 seeks to provide that the Collector shall pay at the rate of nine per cent. per annum whenever amount of compensation is not paid or deposited with the Authority before taking possession of the land.

Clause 75 seeks to provide for temporary occupation of waste or arable land for a period not exceeding three years on payment of compensation.

Clause 76 seeks to provide power to collector to enter and take possession of land after payment of compensation for temporary occupation.

Clause 77 seeks to provide that the Collector shall refer the matter to the Authority in case of a difference of opinion as to condition of land returned to the original occupant after temporary occupation.

Clause 78 seeks to provide that the details of punishment for furnishing false information. It also provides initiation of disciplinary proceedings for *mala fide* actions by Government servants.

Clause 79 seeks to provide for the penalty of six months to three years or fine for contravention of provisions of the proposed legislation relating to payment to compensation or rehabilitation and resettlement.

Clause 80 seeks to provide that, in case of offence by companies, the person in charge of the conduct of business at the time of commission of the offence will be liable for punishment.

Clause 81 seeks to provide that in case of offence by the government department, the head department will be deemed guilty of the offence.

Clause 82 seeks to provide that no Court inferior metropolitan magistrate or judicial magistrate of the first class shall be competent to try offence under the proposed legislation.

Clause 83 seeks to provide that all the offences under the proposed legislation shall be deemed to be non-cognizable.

Clause 84 seeks to provide that no Court shall take cognizance of any offence by requiring body except on written complaint by the District Collector or authorized officer.

Clause 85 seeks to provide that a Magistrate or the Commissioner of Police can enforce surrender of land in case Collector is opposed in taking possession.

Clause 86 seeks to provide the procedure of servicing a notice under the proposed legislation.

Clause 87 seeks to provide that appropriate Government can withdraw from land acquisition before taking actual possession and the Collector shall determine the amount of compensation due for damage suffered by the owner.

Clause 88 seeks to provide that the acquisition of part of any house or building against the wishes of the owner cannot be done.

Clause 89 seeks to provide that the cost of acquisition shall be defrayed from the Requiring Body.

Clause 90 seeks to provide that no award or agreement made under the proposed legislation will be chargeable with stamp duty except under clause 42. Further a person claiming under any such award or agreement is not required to pay any fee for a copy of such award of agreement.

Clause 91 seeks to provide that a certified copy of the document registered under the Registration Act, 1908 may be accepted as evidence of transaction recorded in such document.

Clause 92 seeks to provide that no suit or other proceeding can be commenced against any person for anything done under the proposed legislation without giving one month's notice in writing.

Clause 93 seeks to provide that no change from the purpose or related purposes for which the land is originally acquired shall be allowed.

Clause 94 seeks to provide that the ownership of land cannot be changed without specific permission from the appropriate Government.

Clause 95 seeks to provide that a land acquired under the proposed legislation will be returned to the Land Bank of the appropriate Government if remaining unutilised for a period of ten years.

Clause 96 seeks to provide for share of difference in price of land when transferred for higher consideration.

Clause 97 seeks to provide for provisions to be in addition to existing laws and not in derogation of, any other law for the time being in force.

Clause 98 seeks to provide for provisions of the proposed legislation not to apply in certain cases or to apply with certain modifications.

Clause 99 seeks to provide for power to amend or alter the Schedules of the proposed legislation by the Central Government by notification. Every such notification shall have to be laid before Parliament in draft form for approval.

Clause 100 seeks to clarify that the provisions of the proposed legislation shall not affect the power of the State Legislatures to enact any law conferring higher compensation than payable under the proposed legislation or in making provisions for rehabilitation and resettlement which is more beneficial than provided under the Bill.

Clause 101 seeks to provide for option to affect families to avail better compensation and rehabilitation and resettlement where a State law or a policy framed by the Government of a state provides for a higher compensation than calculated under the proposed legislation.

Clause 102 seeks to empower the appropriate Government to make rules for carrying out the provisions of the proposed legislation.

Clause 103 seeks to provide for rules made by the Central Government to be laid before the Parliament.

Clause 104 seeks to provide for rules made by the State Government to be laid before the Legislature.

Clause 105 seeks to provide for previous publication of rules made by the Central Government as well as by the State Governments.

Clause 106 seeks to empower the Central Government to issue orders for removal of difficulties arising in giving effect to the provisions of the proposed legislation. Such orders could be issued only within two years from the commencement of the proposed legislation. Every such order is required to be laid before Parliament.

Clause 107 seeks to make provisions for savings and repeal of the existing Land Acquisition Act, 1894.

The First Schedule provides for minimum compensation package to be given to those whose land is acquired on this date of the commencement of the proposed legislation.

The Second Schedule provides for the element of rehabilitation and resettlement entitlement for all the affected families in addition to those provided in the First Schedule.

The Third Schedule provide for provision of infrastructure amenities.

The Fourth Schedule provides the list of enactments regulating land acquisition and rehabilitation and resettlement.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 4 of the Bill provides for carrying out of Social Impact Assessment study by the appropriate Government in consultation with the Gram Sabha at habitation level or equivalent body in urban areas, in such manner as may be prescribed. Sub-clause (1) of clause 7 provides that the appropriate Government shall ensure that Social Impact Assessment report is evaluated by an independent multi-disciplinary expert group, as may be constituted by it.

2. Sub-clause (1) of clause 43 of the Bill provides that the Central Government shall constitute a National Monitoring Committee for reviewing and monitoring of implementation of the rehabilitation and resettlement schemes or plans under the proposed legislation. Sub-clause (4) of that clause provides that the Central Government shall provide officers and other employees to the Committee for its efficient functioning.

3. Sub-clause (1) of clause 45 of the Bill provides that the appropriate Government shall establish one or more Land Acquisition, Rehabilitation and Resettlement Authority for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement. Sub-clause (1) of clause 46 provides that the Authority shall consist of one person as the Presiding Officer. Clause 50 of the Bill provides that the salary and allowances payable to and other terms and conditions of service of the Presiding Officers of the Authority shall be such as may be prescribed. Sub-clause (1) of clause 49 provides that the appropriate Government shall provide the Authority with a Registrar and such other officers and other employees as that Government may think fit. Sub-clause (3) of said clause provides that the salary and allowances and other conditions of service of the Registrar and other officers and employees of the authority shall be such as may be prescribed.

4. The manpower requirements and the total financial implication in terms of recurring and non-recurring expenditure involved would be as per the set up of the proposed National Monitoring Committee and the Land Acquisition, Rehabilitation and Resettlement Authority. It is difficult to estimate the exact expenditure from the Consolidated Fund of India both recurring and non-recurring at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 98 of the Bill provides that, subject to sub-clause (3), the provisions of the proposed legislation shall not apply to certain enactments relating to land acquisition specified in the Fourth Schedule to the Bill. The list of such enactments would be subject to omission or addition to any entry therein. The provision of the Bill could be applied to the determination of common session or the providing of rehabilitation or resettlement to the benefits of affected families with exceptions or modifications, as may be determined by the Central Government. Every such modification or exception would be made by the Central Government by notification which would be subject to approval of the Parliament under sub-clause (4) of that clause.

2. Clause 99 of the Bill empowers the Central Government to amend or alter any of the Schedules to the proposed legislation by way of notification in the Official Gazette. Every such notification is required to be laid before each House of Parliament in draft form and required to be approved by Parliament.

3. Sub-clause (1) of clause 102 empowers the appropriate Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matter in respect of which such rules may be made. These matter, *inter alia*, include: (a) prior information process under the first proviso to item (vii) of sub-clause (za) of clause 3; (b) the manner and the time limit for carrying out social impact assessment study under sub-clause (1) of clause 4; (c) the manner of preparing and publishing social impact assessment study reports under sub-clause (1) of clause 5; (d) the manner of obtaining consent of affected families under second proviso to sub-clause (4) of clause 8; (e) the manner and time for conducting survey and undertaking census under sub-clause (1) of clause 17; (f) the manner of preparing draft Rehabilitation and Resettlement scheme under sub-clause (2) of clause 17; (g) the manner of conducting public hearing under sub-clause (5) of clause 17; (h) the manner of depositing amount by the Requiring Body under second proviso to sub-clause (2) of clause 19; (i) the manner in which and the period within which any excess amount paid may be recovered under sub-clause (3) of clause 32; (j) the powers, duties and responsibilities of Administrator under sub-clause (2) of clause 39; (k) the procedure of Rehabilitation and Resettlement Committee under sub-clause (3) of clause 41; (l) the procedure to be followed and allowances to be paid to the experts under sub-clause (3) of clause 43; (m) the salaries and allowances and other conditions of service of the Registrar and other officers and employees of an Authority under sub clause (3) of clause 49; (n) the salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer of an Authority under clause 50; (o) form of Development Plan for the displaced Scheduled Castes and Scheduled Tribes under paragraph 11 of the Second Schedule; (p) any other matter under item (g) of sub-clause (1) of clause 54; and (q) any other matter which is required to be or may be specified under the proposed legislation.

4. Clause 103 provides that every rule made by the Central Government is required to be laid before each House of Parliament.

5. Clause 104 provides that every rule made by the State Government is required to be laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

6. Clause 105 lays down that the power to make rules by the Central and State Government under the proposed legislation would be subject to the previous legislation.

7. The matter in respect of which rules may be made are matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL No. 76 OF 2011

A Bill to establish an Authority and such other regulatory bodies for regulation of radiation safety or nuclear safety and achieving highest standards of such safety based on scientific approach, operating experience and best practices followed by nuclear industry and to ensure that the use of radiation and atomic energy in all its applications is safe for the health of the radiation workers, members of the public and the environment and also to establish a Council of Nuclear Safety to oversee and review the policies relating to radiation safety and nuclear safety and to provide for matters connected therewith or incidental thereto.

WHEREAS India has excellent record in nuclear safety and radiation safety;

AND WHEREAS the Central Government intends to promote nuclear energy to meet shortfall in total energy requirement of the country;

AND WHEREAS such excellent safety record in nuclear safety and radiation safety is required to be sustained for growth in the nuclear energy sector;

NOW, THEREFORE, it has been considered necessary and expedient to establish regulators to ensure continued excellence in nuclear safety and radiation safety in all applications of radiation and atomic energy on a large scale.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

**CHAPTER I
PRELIMINARY**

1. (1) This Act may be called the Nuclear Safety Regulatory Authority Act, 2011.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "Appellate Authority" means an authority constituted by the Council of Nuclear Safety under sub-section (1) of section 35;

(b) "Atomic Energy Regulatory Board" means the Board constituted *vide* notification of the Government of India in the Department of Atomic Energy number S.O. 4772, dated the 15th November, 1983;

(c) "Authority" means the Nuclear Safety Regulatory Authority established under sub-section (1) of section 8;

(d) "Chairperson" means the Chairperson of the Authority appointed under sub-section (1) of section 9;

(e) "consent" means a written permission including a licence, authorisation, registration or approval of the Authority under this Act;

(f) "Council" means the Council of Nuclear Safety established under section 5;

(g) "Member" means a Member of the Authority appointed under sub-section (1) of section 9 and includes the Chairperson;

(h) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "radiation worker" means any person who is occupationally exposed to radiation;

(k) "regulations" means regulations made by the Authority under this Act.

(2) The words and expressions used and not defined in this Act, but defined in the Atomic Energy Act, 1962 shall have the meanings respectively assigned to them in that Act.

33 of 1962.

Act not to
prejudice
national
sovereignty,
etc.

3. (1) Nothing contained in this Act shall be construed as to require or permit any person to do or to refrain from doing anything which the Central Government may, by notification, declare to be prejudicial to the national defence and security.

(2) A declaration made under sub-section (1) shall be conclusive and not be called in question before any court of law.

CHAPTER II

PROHIBITION OF CERTAIN ACTIVITIES WITHOUT CONSENT

4. No person shall carry out any activity falling within the jurisdiction of the Authority without obtaining the written consent under section 28.

Explanation.—For the purpose of this section and section 28, the term "activity" includes production, storage, disposal, transport (within India or outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production or use of radiation or atomic energy.

Prohibition
of certain
activities
without
consent.

CHAPTER III
COUNCIL OF NUCLEAR SAFETY

5. The Central Government shall, by notification, establish a Council to be called the Council of Nuclear Safety consisting of—

- (a) the Prime Minister of India as its Chairperson;
- (b) Union Minister In-Charge of the Ministry of Environment and Forest-Member;
- (c) Union Minister In-Charge of the Ministry of External Affairs-Member;
- (d) Union Minister In-Charge of the Ministry of Health-Member;
- (e) Union Minister In-Charge of the Ministry of Home Affairs-Member;
- (f) Union Minister In-Charge of the Ministry of Science and Technology-Member;
- (g) any other Union Minister to be nominated by the Central Government-Member;
- (h) Cabinet Secretary – Member, *ex officio*;
- (i) Chairman, Atomic Energy Commission-Member, *ex officio*;
- (j) such number of eminent experts as may be nominated by the Central Government-Members.

6. The Council shall meet at such places and intervals as may be necessary and shall regulate its own procedure for its meetings.

7. The Council shall oversee and review the policies with respect to radiation safety, nuclear safety and other matters connected therewith or incidental thereto and for this purpose, it shall have a Secretary to assist it.

CHAPTER IV
ESTABLISHMENT OF NUCLEAR SAFETY REGULATORY AUTHORITY

8. (1) The Central Government shall, by notification, establish an Authority to be called as the Nuclear Safety Regulatory Authority, to exercise the powers conferred on and perform the functions assigned to it by or under this Act.

Explanation.—For the removal of doubts, it is hereby clarified that notwithstanding anything contained in section 7, the Authority shall be autonomous in the exercise of its powers and functions under this Act.

(2) The Authority established under sub-section (1) shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government may notify.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at such other places as may be considered necessary.

9. (1) The Authority shall consist of—

- (i) a Chairperson;
- (ii) two whole-time Members; and
- (iii) part-time Members not exceeding four,

to be appointed by the Central Government on the recommendations of the Search Committees constituted under section 10.

Establishment
of Council of
Nuclear
Safety.

Meetings of
Council.

Powers and
functions of
Council.

Establishment
of Authority.

Composition
of Authority.

(2) A person shall be eligible to be appointed as the Chairperson of the Authority, if such person—

(a) is a citizen of India;

(b) is of outstanding ability, impeccable integrity and standing and having distinguished professional record and experience of at least twenty-five years in Government, industry, academic institutions or national laboratories and is an expert in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may, in the opinion of the Central Government, be relevant.

(3) A person shall be eligible to be appointed as the Member of the Authority, if such person—

(a) is a citizen of India;

(b) is of outstanding ability, impeccable integrity and standing and having distinguished professional record and experience of at least twenty years in Government, industry, academic institutions or national laboratories and is an expert in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may, in the opinion of the Central Government, be relevant.

Constitution
of Search
Committees.

10. (1) The Council shall constitute a Search Committee for the selection of Chairperson and another Search Committee for the selection of Members of the Authority:

Provided that the Chairperson and members of the Search Committee shall be from amongst persons of eminence having knowledge and experience in the field of science, engineering or technology:

Provided further that the Chairperson of the Authority shall be a Member of the Search Committee constituted for the appointment of Members.

(2) The Central Government shall, within a period of three months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or completion of the term of the Chairperson or Member, make a reference to the Search Committee for filling up the vacancy.

(3) No appointment of the Chairperson or Member shall be invalid merely by the reason of any vacancy in the Search Committees.

(4) The term of the Search Committees and the manner of search of panel of names for making recommendations for appointment of Chairperson or Member shall be such as may be specified by the Council.

(5) Subject to the provisions of sub-sections (1) to (4), the Search Committee shall regulate its own procedure.

(6) Before appointing any person as the Chairperson or Member of the Authority, the Central Government shall satisfy itself that such person does not have any financial or other interest as is likely to affect prejudicially his functions.

Term of
office and
other
conditions of
service of
Chairperson
and Members.

11. (1) The Chairperson and other Members shall hold office for a term of three years from the date on which they enter upon their offices, and shall be eligible for reappointment for a further period of three years:

Provided that the Chairperson shall not hold office as such after he has attained the age of seventy years and a whole-time Member shall not hold office as such after he has attained the age of sixty-five years.

1 of 1956.

(2) Any person holding any office (whether as an employee or an officer or a director or managing director or secretary or manager or in any other capacity) under the Central Government or State Government or in a company (including a Government Company referred to in section 617 of the Companies Act, 1956) or in any other institution, organisation, society or University or Board, shall, on his selection as the Chairperson or a whole-time Member, be required to seek retirement or resign from the services of such Central or State Government or company or institution or organisation or society or University or Board, as the case may be, before accepting the employment as such Chairperson or as the case may be, the Member.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed:

Provided that the salary, allowances and other terms and conditions of service of the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 14.

12. The Chairperson shall be the Chief Executive Officer of the Authority and shall exercise such financial and administrative powers as may be prescribed:

Provided that the Chairperson shall have authority to delegate such of the financial and administrative powers as he may think fit to any whole-time Member or an officer of the Authority subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

13. (1) The Chairperson or a whole-time Member, ceasing to hold office as such, shall not accept any employment with,—

(a) any person who has been granted consent for any activity under this Act; or

(b) any person who has been associated with the person referred to in clause (a); or

(c) any person who has been connected with the management or administration of the person referred to in clause (a) or clause (b).

(2) The Chairperson or a Member, ceasing to hold office as such shall not,—

(a) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or the Member, before cessation of his office, had acted for, or provided advice to, the Authority; or

(b) give advice to any person (including his client, business associate or employer) using information which was obtained in his capacity as the Chairperson or a Member and being not available or cannot be made available to the public; or

(c) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such, without the approval of the Central Government.

Financial and administrative powers of Chairperson.

Restriction on Chairperson or Members on employment after cessation of office.

(3) Save as otherwise provided in this Act or any other law for the time being in force, the Chairperson and Members shall not communicate during holding of office as such or thereafter or reveal to any person any matter which has been brought under his consideration or known to him while acting as such.

Removal of Chairperson and Members.

14. (1) Notwithstanding anything contained in section 10, the Central Government may, by order, remove from office, the Chairperson or any Member, if he—

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as Chairperson or Member; or
- (d) has acquired such financial or other interests as is likely to affect prejudicially his functions; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or any Member shall not be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Meetings of Authority.

15. (1) The Authority shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meeting) as may be specified by regulations.

(2) Where the Chairperson is unable to attend a meeting of the Authority for any reason, the senior most whole-time Member shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the senior most whole-time Member presiding, shall have a second or casting vote.

Vacancies, etc., not to invalidate proceedings of Authority.

16. No act or proceeding of the Authority shall be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Authority; or
- (b) any defect in the appointment of a person as a Member of the Authority; or
- (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Secretary and other officers and employees of Authority.

17. (1) The Authority may appoint a Secretary and such number of other officers, employees, consultants or experts, as it considers necessary, for the efficient discharge of its functions and exercise of its powers under this Act:

Provided that no appointment of officers or employees shall be made unless prior written approval of the Central Government has been obtained by the Authority for creation of posts therefor:

Provided further that the Central Government may, on the establishment of the Authority, provide by order, such number of officers, employees, consultants or experts till such time the Authority appoints its secretary and such number of other officers, employees, consultants or experts and such officers, employees, consultants or experts shall be deemed to be on deputation or short term contract, on such terms and conditions, as it may specify.

(2) The salaries, allowances and pensions payable to, and other terms and conditions of service of the officers, other employees of the Authority, shall be such as may be specified by regulations.

18. (1) On and from the establishment of the Authority—

(a) the Atomic Energy Regulatory Board shall stand dissolved;

(b) all sums of money due to the Atomic Energy Regulatory Board immediately before that day shall be deemed to be due to the Authority;

(c) all suits and other legal proceedings instituted or which could have been instituted by or against the Atomic Energy Regulatory Board immediately before that day may be continued or may be instituted by or against the Authority;

(d) anything done or any action taken by the Atomic Energy Regulatory Board shall be deemed to have been done or taken under corresponding provisions of this Act.

(2) The Chairman and Members of the Atomic Energy Regulatory Board shall be transferred as such to function as Chairperson and Members under this Act and be deemed to be the Chairperson and Members of the Authority under this Act until the Chairperson and Members of the Authority are appointed in accordance with the provisions of this Act.

(3) On and from the date of the commencement of this Act, every officer and employee holding a post in the Atomic Energy Regulatory Board before that date, shall hold the post in the Authority by the same tenure, and upon the same terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such post as if this Act had not been passed and shall continue to do so as an officer or employee, as the case may be, of the Authority for a period of three years from the date of the commencement of this Act, unless he, within the said period of three years, opts not to be an employee of the Authority or until his tenure, remuneration or other terms and conditions of service are duly altered by the regulations.

(4) Every person, who opts not to be an employee of the Authority within the period so specified, shall be governed by the rules and orders as are applicable to the Central Government officers and employees of equivalent rank.

(5) Subject to the provisions of this section, the tenure, remuneration and other terms and conditions of service including pension of any employee of the Authority shall not be altered to his disadvantage without the previous approval of the Central Government.

(6) After the dissolution of the Atomic Energy Regulatory Board under clause (a) of sub-section (1), such of the functions and powers of that Board as are vested in the Authority under this Act shall be carried out by the Authority after such dissolution.

19. Save as otherwise provided in sections 25 and 27, the jurisdiction of the Authority shall extend to all areas to which this Act is applicable and activities relating to production, development or use of atomic energy and radiation in all its applications, or transport (within India or outside India), transfer by sale or otherwise, import, export or storage or disposal of nuclear and radioactive material.

Transfer of assets, liabilities, etc., of Atomic Energy Regulatory Board and saving of its action, etc.

Jurisdiction of Authority.

CHAPTER V

POWERS AND FUNCTIONS OF AUTHORITY

20. (1) The Authority shall, subject to the provisions of this Act and the rules and regulations made thereunder, take measures, within its jurisdiction, to ensure that the use of radiation and atomic energy is safe for the health of the radiation workers, members of the public and the environment.

Functions of Authority.

*Explanation.—*For the removal of doubts, it is hereby declared that the functions of the Authority shall be confined only to ensure the radiation safety or nuclear safety during activities relating to production, storage, disposal, transport, transfer by sale or otherwise,

import, export and use of any nuclear material, radioactive material or any other substance, or equipment, and physical security of nuclear material, radioactive material, and radiation and nuclear facilities, and in no case shall extend to the functions or any other matter which the Central Government is required to discharge under the Atomic Energy Act, 1962.

33 of 1962.

(2) Without prejudice to the generality of foregoing provisions, and the measures referred to in sub-section (1), the Authority shall—

(a) devise and implement policies and programmes for radiation safety and nuclear safety to ensure that use of atomic energy or radiation in all its applications is safe for, the health of radiation workers and members of public, and the environment;

(b) ensure high quality of safety management at all places where nuclear and radiation related activities are carried out;

(c) ensure transparency by systematic public outreach on matters relating to nuclear safety without disclosing sensitive information and compromising confidentiality of commercially sensitive information of technology holders.

Explanation.—For the purpose of this clause, the expression “sensitive information” means information pertaining to—

(i) physical security of nuclear material and facilities, or

(ii) reprocessing of spent fuel, enrichment of fissile material or heavy water production technologies; or

(iii) any information under section 26 which has been accessed by the Authority or has come to its knowledge or made available to it in the discharge of its functions;

(d) strive to be a knowledge organisation with state of the art scientific capabilities in the domain of its responsibilities, arrange for and conduct research in areas relevant to its functions and develop linkages with technical support organisations;

(e) interact with other bodies and international organisations engaged in activities relevant to the functions of the Authority including nuclear and radiation safety, physical security of nuclear material and facilities, transportation of nuclear and radioactive materials and nuclear and radiation safety and regulation:

Provided that the Authority shall not interact with such bodies and international organisations outside India without the prior approval of the Central Government;

(f) advise the Central Government with respect to—

(i) safety of public and the environment;

(ii) measures to implement and coordinate a nationwide programme for environmental surveillance to check any harmful build up of radioactivity in the environment;

(iii) measures to ensure establishment and maintenance of appropriate mechanisms and plans for preparedness in response to nuclear and radiation emergencies;

(g) notify the limits of radiation exposure to radiation workers and the members of the public;

(h) specify by regulations, the requisite qualification, the training required to the persons for employment at premises or places whereat any activity relating to

production, storage, disposal, transport and use of any nuclear material, radioactive material or any other substance or equipment used for production, or use of atomic energy is carried out, and specify hours of work, minimum leave and requirements of periodical medical examination of such employees;

(i) specify by regulations the requirement of approval to, or licensing of, the persons referred to in clause (h);

(j) establish an appropriate regulatory mechanism which shall provide for issue of consents, monitoring of compliances, inspections and enforcement;

(k) develop and notify the standards and codes, and develop and publish other supporting documents for safety in design, siting, construction, commissioning, operation, quality assurance, decommissioning, storage, transportation and other activities related to plants, facilities, nuclear and radioactive wastes, radiation sources and radioactive materials;

(l) issue, renew, modify, suspend and revoke consents with specified conditions for conduct of any activity which come under its jurisdiction for the production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production, or use of atomic energy;

(m) levy fee, by regulation, for issue, modification and renewal of consents;

(n) take such measures as to enforce compliance of the provisions of the Act by the holder of the consent;

(o) notify measures for physical security within the area of main plant boundary, physical protection of nuclear and radioactive materials under storage as well as transport (within and outside India), and nuclear and radiation facilities;

(p) engage with the consent of Head of concerned bodies, the institutions, laboratories, agencies, technical support organisations, industries, individual experts and professionals of integrity and outstanding ability, who have expertise in scientific, technical, sociological, legal and such other disciplines related to nuclear, radiation and industrial safety to assist the Authority in the discharge of its functions;

(q) discharge its functions and powers in a manner consistent with the international obligations of India;

(r) apprise, from time to time, the National Disaster Management Authority established under section 3 of the Disaster Management Act, 2005 regarding nuclear safety and radiation safety measures and management of disaster arising from nuclear incident notified under section 3 of the Civil Liability for Nuclear Damage Act, 2010 and coordinate with the said Authority in the case of such disaster;

(s) notify nuclear incident as required by section 3 of the Civil Liability for Nuclear Damage Act, 2010.

(3) The Authority may, for reasons to be recorded in writing, exempt, by notification, subject to such conditions as may be specified by it in the notification, any radioactive material, any class or classes of radioactive material or any radiation generating plant from the applicability of any of the provisions of the safety related regulations or orders issued under this Act.

21. The Authority, while discharging its powers and functions, shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

Authority to
act in interest
of sovereignty
and integrity
of India.

53 of 2005.

38 of 2010.

38 of 2010.

Power of Authority to give directions to owner of radioactive material, etc.

22. Without prejudice to any provisions of this Act, the Authority may—

(a) direct any owner of, or holder of the consent or any person dealing with radioactive material, radiation source or facility to hand it over to the Central Government if, in the opinion of the Authority, continuation of such material or facility under the control of its owner or the holder of the consent or any such person is detrimental to the safety and physical security of such material or facility, or has a potential to be detrimental to the safety of public or the environment;

(b) advise the Central Government to take control of the radioactive material or radiation source if owner thereof cannot be identified.

Administration of Factories Act, 1948.

23. (1) Notwithstanding anything contained in the Factories Act, 1948, the Authority and other regulatory bodies shall, subject to the rules made under this Act, administer the said Act, and do all things for the enforcement of its provisions, including the appointment of inspecting staff, in any factory engaged in the development, production and use of radiation and atomic energy or any facility engaged in research and development activities related to radiation or atomic energy, and owned or administered by the Central Government or any other authority or corporation established by it or a Government company under the jurisdiction of the Authority or the regulatory bodies, as the case may be.

63 of 1948.

(2) No authority under the Factories Act, 1948 shall have jurisdiction in respect of functions referred to in sub-section (1).

63 of 1948.

Delegation of powers.

24. The Authority may, by general or special order in writing, delegate to the Chairperson or any Member or officer of the Authority or a State Government or such officer or authority subordinate to the State Government, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 51), as it may deem necessary.

CHAPTER VI

ESTABLISHMENT OF OTHER REGULATORY BODIES

Establishment of regulatory bodies.

25. (1) Notwithstanding anything contained in this Act, the Central Government may, for the purposes of national defence and security, exempt,—

(a) any nuclear material, radioactive material, facilities, premises and activities;

(b) the premises, assets and areas associated with material and activities referred to in clause (a),

from the jurisdiction of the Authority.

(2) The Central Government may, for the purposes of regulating the material, facilities, activities referred to in clause (a) or premises, assets and areas referred to in clause (b) of sub-section (1), by order, in writing establish one or more regulatory bodies and demarcate responsibility thereof to discharge one or more of the functions in respect thereof which otherwise before such exemption were within the jurisdiction of the Authority and such functions amongst other things shall include—to

(i) ensure that the use of radiation or atomic energy is safe for the radiation workers, the members of the public and the environment;

(ii) report to that Government release of radiation or radioactive material exceeding specified limits from facilities under its jurisdiction into any area falling within the jurisdiction of the Authority.

(3) The Central Government may, by notification, specify that the provisions of this Act shall, subject to such modifications or conditions or adaptation as it may specify, apply to such regulatory bodies.

26. (1) Save as otherwise provided in this Act, the regulatory bodies referred to in sub-section (2) of section 25 shall not disclose to any person the information relating to the activities falling under their jurisdiction.

Prohibition
of disclosure
of
information.

(2) No Chairperson or Member or officer or other employees or consultant or expert shall, either during his employment with such regulatory bodies or after cessation of such employment, disclose any confidential information relating to activities falling under the jurisdiction of regulatory bodies.

27. Notwithstanding anything contained in this Act or any other law for the time being in force, the Central Government may, for the purposes of national defence and security, by order, exempt any area, nuclear material, radioactive material, nuclear facility or plant from jurisdiction of the Authority or other regulatory bodies under this Act and carry out those functions itself in relation thereto, which, but for such exemption, would have been carried out by the Authority or other regulatory bodies under this Act.

Power of
Central
Government
to carry out
certain
functions
itself.

CHAPTER VII

GRANT OF CONSENT

28. (1) Every person shall, for carrying out any activity falling under the jurisdiction of the Authority relating to production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production, or use of radiation or atomic energy, obtain the consent of the Authority and for that purpose, submit an application in such form and manner, along with such fee and accompanied by such documents and information, as may be specified by the regulations.

Procedure for
grant of
consent for
carrying out
activities
related to
nuclear
material, etc.

(2) On receipt of the application under sub-section (1), the Authority shall undertake an evaluation of the application based on the practices and requirements of codes and standards developed by it.

(3) The Authority, on completion of evaluation under sub-section (2), shall—

(a) if it is of the opinion that the activity for which the consent has been sought fulfils all the requirements for the grant of consent, it may, by an order in writing, grant consent for such period and with or without condition for such activity;

(b) if it is of the opinion that the activity for which consent has been sought does not fulfil all the requirements for the grant of consent, it may, by an order in writing, refuse to grant consent;

(c) if the Authority has reasonable grounds to believe that the person may not comply with the conditions which may be imposed under clause (a) in respect of the consent, it may by an order in writing, refuse to grant consent for the proposed activity.

(4) Where the Authority refuses to grant the consent referred to in clause (c) of sub-section (3), it shall record the reasons for such decision and furnish a copy thereof to the applicant.

29. (1) The Authority may cancel consent granted under section 28 on any one or more of the following grounds, namely:—

Suspension
and
cancellation
of consent.

(a) the grantee of consent has violated any of the terms and conditions of consent; or

(b) the grantee of consent has violated any provision of this Act; or

(c) the grantee of consent has, subsequent to the grant of consent, been convicted by a court in India for any offence under this Act; or

(d) the consent has been obtained on misrepresentation, or suppression of any material fact.

(2) Where the Authority, for reasons to be recorded in writing, is satisfied that, pending the consideration of question of cancelling consent on any of the grounds mentioned in sub-section (1) it is necessary so to do, it may, by order in writing, suspend the consent so granted and require the grantee to show cause, within fifteen days from the date of receipt of such order, as to why the consent should not be cancelled.

Responsibilities
of grantee of
consent.

30. Every person who has been granted consent shall be responsible for safety and physical security of radiation and nuclear facility and radioactive and nuclear material contained therein.

Power of
Authority to
call for
information,
conduct
investigations,
etc.

31. (1) Where the Authority considers it expedient so to do, it may by order in writing,—

(a) call upon any owner or any person in charge of or managing director, director, secretary or other officer of radiation or nuclear facility at any time to furnish in writing such information or explanation relating to its activities as the Authority may require to carry out its functions under this Act; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any radiation or nuclear facility; and

(c) direct any of its officers or employees to inspect the books or other documents of any radiation or nuclear facility.

(2) Where any inquiry in relation to the affairs of any person referred to in clause (a) of sub-section (1) has been undertaken under that sub-section,—

(a) every owner or managing director or director, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a company; or

(b) every partner, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a firm; or

(c) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a) and (b) of sub-section (1),

shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him within such time as may be specified.

(3) Every person referred to in clause (a) of sub-section (1) shall maintain such records or other documents as may be prescribed.

Power of
Authority to
issue certain
directions.

32. The Authority may, for the purpose of discharge of its functions under this Act issue such directions, to the persons who have been granted consent under this Act, as it may consider necessary.

Powers of
inspection,
search and
seizure.

33. (1) The Authority or any other officer specially authorised by it in this behalf may carry out such inspection or inquiry as may be necessary, enter any building or place where the Authority has reason to believe that any document or object relating to the subject matter of the inquiry may be found, and may seize any such document or object subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

(2) For the purpose of sub-section (1), the Authority shall have power of access to—

(a) premises and places, vehicle, vessel or aircraft where radiation is present or used or proposed to be used; and

(b) documents, drawings, photographs, plans, models or any other form which relates to or represents or illustrates any existing or proposed plant, used or proposed to be used for the purpose of producing, developing or using atomic energy or radiation.

34. (1) Any person aggrieved by an order made by the Authority under section 28 or section 29 may file an application to the Authority for review of that order within a period of thirty days from the date of such order:

Review of
order of
Authority.

Provided that the Authority may entertain such application after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that notwithstanding the filing of an application under this section, the aggrieved person shall abide by the order in question, unless it has been stayed by a subsequent order of the Authority in writing.

(2) Every application for review under sub-section (1) shall clearly state the ground or grounds on which a review is sought.

(3) An application for review filed before the Authority shall be heard and disposed of as expeditiously as possible and endeavour shall be made to finally dispose of the application within a period of ninety days from the date of its filing.

CHAPTER VIII

APPEAL

35. (1) The Council shall, as and when required, constitute, by notification, an Appellate Authority for the purpose of this Act, to hear appeals from any order or decision passed by the Authority under section 28 or section 29 or under sub-section (3) of section 34, as the case may be.

Appellate
Authority.

(2) The Appellate Authority constituted under sub-section (1) shall consist of a Chairperson and not more than two Members to be appointed by notification, by the Council.

(3) The selection of the Chairperson and Members of the Appellate Authority shall be made by the Council in consultation with the Chief Justice of India or his nominee.

(4) A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Authority unless he—

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court, or the Chief Justice of a High Court;

(b) in the case of a Member, is an eminent scientist and has held the post of Secretary to the Government of India or any equivalent post in the Department of the Central Government in the Ministries or Departments or an institution administered by that Government dealing with science and technology.

(5) The Central Government or any person aggrieved by an order referred to in sub-section (1) may file an appeal before the Appellate Authority within a period of thirty days from the date of such order:

Provided that the Authority may entertain such appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal within that period.

(6) The appeal shall be filed in such manner and accompanied by such fees as may be prescribed.

(7) Every appeal shall be heard and disposed of as expeditiously as possible, within a period of ninety days from the date of its filing.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

Budget.

36. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government.

Grants by
Central
Government.

37. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid.

Annual
statement of
accounts.

38. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

(3) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights, privileges and Authority in connection with such audit, as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Furnishing of
returns, etc.,
to Central
Government.

39. (1) The Authority shall furnish to the Central Government, at such time and in such form and the manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require.

(2) The Authority shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER X

OFFENCES AND PENALTIES

Offences and
penalties.

40. Whoever—

(a) discloses any information prohibited under section 26; or

(b) contravenes any condition subject to which a consent is granted under section 28; or

(c) contravenes any order made under section 31; or

- (d) obstruct any person authorised by the Authority under section 33 in the exercise of the powers under that section; or
- (e) contravenes any rule or regulation made under this Act or any requirement, prohibition or restriction imposed under any such rule or regulation; or
- (f) fails to comply with any direction, order or decision of the Authority or other regulatory bodies under this Act,

shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

41. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer or employees of the company such director, manager, secretary or other officer or employees shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals or any other juridical person; and

(b) “director” means a whole-time director in the company and in relation to a firm, means a partner in the firm.

CHAPTER XI

MISCELLANEOUS

42. (1) The Central Government may, from time to time, issue to the Authority or other regulatory bodies, such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in the public interest.

Directions by
Central
Government.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

43. The Chairperson, Members, Secretary, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members,
officers and
employees of
Authority to
be public
servants.

Bar of jurisdiction.

44. No civil court shall have jurisdiction in respect of any matter which the Authority or other regulatory bodies are empowered by or under this Act to determine.

Obligations as to fidelity and secrecy.

45. Every Chairperson, Member, adviser, consultant, Secretary, officer or any other employee of the Authority or other regulatory bodies shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule.

Protection of action taken in good faith.

46. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

Cognizance of offence.

47. No court inferior to the Chief Judicial Magistrate shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by—

(i) the Authority or any officer of the Authority duly authorised by it where the offence relates to an act falling within the jurisdiction of the Authority;

(ii) the Central Government or any officer of that Government duly authorised by it in respect of any other offence.

48. (1) If, at any time, the Central Government is of opinion—

(a) that the Authority has acted in a manner inconsistent with the provisions of this Act or rules and regulations made thereunder; or

(b) that on account of circumstances beyond the control of the Authority, it is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(c) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority has suffered or the administration of any radiation or nuclear installation has deteriorated; or

(d) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Authority to show cause as to why it should not be superseded, and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by the Central Government or such authority or person as the Central Government may specify in this behalf;

(c) all properties owned or controlled by the Authority shall, until it is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the Chairperson and other Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

49. (1) The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application
of other laws
not barred.

33 of 1962.

(2) Nothing in this Act shall affect the provisions of the Atomic Energy Act, 1962 and save and except as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of that Act.

50. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances payable to and the other terms and conditions of service of Chairperson and Members under sub-section (3) of section 11;

(b) the financial and administrative powers to be exercised by the Chairperson under section 12;

(c) the manner of maintaining books of account and other documents under sub-section (3) of section 31;

(d) the manner and fees for filing appeal under sub-section (6) of section 35;

(e) the form and time for preparing the budget under section 36;

(f) the form for annual statement of accounts under section 38;

(g) the form and manner of furnishing returns under sub-section (1) of section 39;

(h) the form and time for preparing the annual report under sub-section (2) of section 39;

(i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

51. (1) The Authority may, by notification in the Official Gazette, and with the previous approval of the Central Government, make regulations, not inconsistent with this Act, and the rules made thereunder, to carry out the provisions of this Act.

Power to
make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the time, place, procedure for transaction of business and the quorum of the Authority under sub-section (1) of section 15;
- (b) the salaries, allowances and pensions payable to, and other terms and conditions of service of the officers and other employees of the Authority under sub-section (2) of section 17;
- (c) the requisite qualifications and training required to persons under clause (h) of sub-section (2) of section 20;
- (d) the requirement of approval to, or the licensing of, persons under clause (i) of sub-section (2) of section 20;
- (e) levy of fee for issue, modification and renewal of consent under clause (l) of sub-section (2) of section 20;
- (f) the form and manner of application for consent, the fee and documents and information to accompany it under sub-section (1) of section 28;
- (g) any other matter which is required to be, or may be, specified by regulations.

Rules and
regulations to
be laid before
Parliament.

52. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Amendment
of certain
enactments.

53. The enactments specified in the Second Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.

Power to
remove
difficulties.

54. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE FIRST SCHEDULE*(See section 45)*

I,....., do hereby declare that I will faithfully, truly and to the best of my skill and ability, execute and perform the duties required of me as the Chairperson, Member, or officer or other employee of the Authority which properly relate to the office or position held by me in relation to the Nuclear Safety Regulatory Authority.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Authority or to the affairs of any person having any dealing with the said Authority, nor will I allow any such person to inspect or have access to any books or documents belonging to or in possession of the said Authority and relating to the business of the said Authority or the business of any person having any dealing with the said Authority.

(Signature)

Signed before me

THE SECOND SCHEDULE

(See section 53)

PART I

AMENDMENTS TO THE ATOMIC ENERGY ACT, 1962

(33 OF 1962)

Substitution
of new
section for
section 16.

Control over
radioactive
material.

Amendment
of section 17.

Amendment
of section 23.

Amendment
of section 26.

Amendment
of section 30.

- For section 16, the following section shall be substituted, namely:—

“16. The Central Government may, subject to such rules as may be made in this behalf and by order, prohibit the manufacture, possession, transfer by sale or otherwise, export or import of any radioactive material, except under a licence granted by it.”.

- In section 17, the following proviso shall be inserted, namely:—

“Provided that nothing contained in this section shall apply on or after the commencement of the Nuclear Safety Regulatory Authority Act, 2011.”.

- In section 23, the following proviso shall be inserted, namely:—

“Provided that nothing contained in this section shall apply on or after the commencement of the Nuclear Safety Regulatory Authority Act, 2011.”.

- In section 26, in sub-section (1), in clause (a), for the words and figures “section 8, 14 or 17”, the words and figures “section 8 or 14” shall be substituted.

- In section 30,—

(a) in sub-section (2), in clause (i), the words “use or disposal” shall be omitted;

(b) in clause (j), the following proviso shall be inserted, namely:—

“Provided that nothing contained in this clause shall apply on or after the commencement of the Nuclear Safety Regulatory Authority Act, 2011.”.

PART II

AMENDMENTS TO THE RIGHT TO INFORMATION ACT, 2005

(22 OF 2005)

Amendment
of section 8.

- In section 8, in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

“(ca) information referred to in clause (c) of sub-section (2) of section 20 of the Nuclear Safety Regulatory Authority Act, 2011.”.

- In the Second Schedule, after item 7, the following item shall be inserted, namely:—

“7A. The regulatory bodies established under sub-section (2) of section 25 of the Nuclear Safety Regulatory Authority Act, 2011.”.

PART III

AMENDMENT TO THE DISASTER MANAGEMENT ACT, 2005

(53 OF 2005)

Amendment
of section 6.

- In section 6, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The National Authority, while laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disaster, shall have due

regard to the safety requirements laid down and regulations made by the Nuclear Safety Regulatory Authority under the Nuclear Safety Regulatory Authority Act, 2011 and coordinate with such Authority in the case of a disaster resulting from a nuclear incident notified under section 3 of the Civil Liability for Nuclear Damage Act, 2010.”.
38 of 2010.

PART IV

AMENDMENT TO THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

(38 OF 2010)

For section 3, the following section shall be substituted, namely:—

Substitution
of new
section for
section 3.

“3. (1) The Nuclear Safety Regulatory Authority established under the Nuclear Safety Regulatory Authority Act, 2011 shall, within a period of fifteen days from the date of occurrence of a nuclear incident, notify such nuclear incident:

Nuclear
Safety
Regulatory
Authority to
notify nuclear
incident.

Provided that where the Nuclear Safety Regulatory Authority is satisfied that the gravity of threat and risk involved in a nuclear incident is insignificant, it shall not be required to notify such nuclear incident.

(2) The Nuclear Safety Regulatory Authority shall, immediately after the notification under sub-section (1) is issued, cause wide publicity to be given to the occurrence of such nuclear incident, in such manner as it may deem fit.”.

STATEMENT OF OBJECTS AND REASONS

The Atomic Energy Act, 1962 was enacted, after repealing the Atomic Energy Act, 1948, to provide for a legal framework for the development, control and use of atomic energy for the welfare of the people of India and for other peaceful purposes.

2. The Atomic Energy Regulatory Board was constituted by a notification issued under the Atomic Energy Act, 1962 to carry out certain regulatory and safety functions for administering nuclear and radiation safety in the facilities under its jurisdiction. The said Board is also vested with powers for regulating radiation safety in radiation facilities relating to medicine, industry and research and for enforcement of the Factories Act, 1948 in respect of installations under its jurisdiction. The said Board has functional independence and reports to the Atomic Energy Commission.

3. The Fukushima incident in Japan has led to worldwide concerns and apprehension on safety issues relating to nuclear power. The Government of India attaches highest importance to nuclear safety and considers it expedient to establish statutory regulatory bodies to further strengthen regulation of radiation and nuclear safety in the country. Hon'ble Prime Minister has made a statement on the floor of the Lok Sabha on 14th March, 2011 and assured that India's nuclear safety regulatory framework would be strengthened.

4. It is, therefore, considered necessary to establish a legal framework for regulation of radiation safety and nuclear safety to achieve highest standards of such safety based on scientific approach, operating experience and best practices followed by nuclear industry and to ensure that the use of radiation and atomic energy in all its applications is safe for the health of the radiation workers, members of the public and the environment.

5. The Bill, *inter alia*, seeks—

(a) to provide for the establishment of the Council of Nuclear Safety to oversee and review the policies with respect to radiation safety, nuclear safety and other matters;

(b) to provide for the establishment of the Nuclear Safety Regulatory Authority to ensure that the use of radiation and atomic energy is safe for the health of the radiation workers, members of the public and the environment;

(c) to provide for the establishment of other regulatory bodies for the purpose of national defence and security;

(d) to prohibit certain activities without the consent of the Nuclear Safety Regulatory Authority and provide for the procedure for grant of consent to persons carrying out the activities falling under the jurisdiction of such Authority;

(e) to provide for the suspension and cancellation of consent by the Nuclear Safety Regulatory Authority and also for review of orders passed by it;

(f) to empower the Council of Nuclear Safety to constitute an Appellate Authority with Chairperson who is a Judge of the Supreme Court or Chief Justice of a High Court and two other Members who are eminent scientists in the field of nuclear or atomic energy;

(g) to enable the Central Government or any person aggrieved by the order of the Nuclear Safety Regulatory Authority to file an appeal to the Appellate Authority;

(h) to provide for the offences and penalties for contraventions of the provisions of the Act;

(i) to empower the Central Government to supersede the Nuclear Safety Regulatory Authority under the circumstances specified in the Act;

(j) to provide for certain amendments in the Atomic Energy Act, 1962; the Right to Information Act, 2005; the Disaster Management Act, 2005; and the Civil Liability for Nuclear Damage Act, 2010.

6. The Bill seeks to achieve the above objects.

7. The Notes on Clauses explains the various provisions contained in the Bill.

NEW DELHI;
The 5th September, 2011.

V. NARAYANASAMY.

Notes on clauses

Clause 1.— This clause, *inter alia*, seeks to extend the provisions of the Bill to the whole of India.

Clause 2.— This clause defines various expressions used in the Bill.

Clause 3.— This clause provides that the Act not to prejudice national sovereignty, etc. Sub-clause (1) of the said clause provides that nothing in the Act shall be construed as to require or permit any person to do or to refrain from doing anything which the Central Government may declare to be prejudicial to the national defence and security. Sub-clause (2) of the said clause provides that a declaration so made shall be conclusive and not be called in question before any court of law.

Clause 4.— This clause provides for prohibition of certain activities without consent. The said clause prohibits carrying out of any activity related to nuclear material, etc., falling within the jurisdiction of the Nuclear Safety Regulatory Authority without obtaining its written consent. Further, it explains the expression ‘activity’.

Clause 5.— This clause provides for establishment of Council of Nuclear Safety. The said clause empowers the Central Government to establish a ‘Council of Nuclear Safety’ consisting of Prime Minister as its Chairperson and the Union Ministers for Environment and Forests, External Affairs, Health and Family Welfare, Home Affairs, Science and Technology, any other Union Minister to be nominated by Central Government, the Cabinet Secretary, the Chairman, Atomic Energy Commission, as its *ex officio* Members and such number of eminent experts as may be nominated by the Central Government also as its Members.

Clause 6.— This clause provides for meetings of Council. The said clause provides that the Council shall meet at such places and intervals as may be necessary and to regulate its own procedure for its meetings.

Clause 7.— This clause provides for powers and functions of Council. The said clause provides that the Council shall oversee and review the policies with respect to radiation safety, nuclear safety and other matters connected therewith or incidental thereto and for this purpose, it shall have a Secretary to assist it.

Clause 8.— This clause provides for establishment of Nuclear Safety Regulatory Authority. The sub-clause (1) of the said clause empowers the Central Government to establish an Authority to be called as the Nuclear Safety Regulatory Authority to exercise the powers conferred on and perform the functions assigned to it by or under the Act. The explanation to it clarifies that notwithstanding anything contained in section 7, the Authority shall be autonomous in the exercise of its powers and functions under the Act. Sub-clause (2) of the said clause provides that the Authority shall be a body corporate. Sub-clause (3) of the said clause provides that the head office of the said Authority shall be at such places as the Central Government may notify. Sub-clause (4) of the said clause provides that the Authority may, with the prior approval of the Central Government, establish its offices at such other places as may be considered necessary.

Clause 9.— This clause provides for composition of Nuclear Safety Regulatory Authority. Sub-clause (1) of the said clause provides that the Authority shall consist of a Chairperson, two whole-time Members and part-time Members not exceeding four to be appointed by the Central Government on the recommendations of the Search Committees constituted for the purpose.

Sub-clause (2) of the said clause provides that a person shall not be qualified for appointment as Chairperson of the Authority unless he is an Indian citizen and of outstanding ability, impeccable integrity and standing and having distinguished professional record and

experience of at least twenty-five years in Government, industry, academic institutions or national laboratories and is an expert in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may in the opinion of the Central Government be relevant.

Sub-clause (3) of the said Act provides that a person shall not be qualified for appointment as Member of the Authority unless he is a citizen of India and of outstanding ability, impeccable integrity and standing and having distinguished professional record and experience of at least twenty years in Government, industry, academic institutions or national laboratories and is an expert in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may in the opinion of the Central Government, be relevant.

Clause 10.— This clause provides for constitution of Search Committees. Sub-clause (1) of the said clause empowers the Council to Constitute a Search Committee for the selection of Chairperson and another Search Committee for the selection of Members of the Authority. However, the said clause provides that the Chairperson and members of Search Committees shall be amongst persons of eminence having knowledge and experience in the field of science, engineering or technology and that the Chairperson of the Authority shall be a Member of the Search Committee constituted for the appointment of Members.

Sub-clause (2) of the said clause provides that the Central Government shall, within a period of three months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or completion of the term of the Chairperson or Member, make a reference to the Search Committee for filling up the vacancy. Sub-clause (3) of the said clause provides that no appointment of the Chairperson or Member shall be invalid merely by the reason of any vacancy in the Search Committees. Sub-clause (4) of the said clause provides that the term of the Search Committees and the manner of search of panel of names for making recommendations for appointment of Chairperson or Member shall be such as may be specified by the Council. Sub-clause (5) of the said clause provides that the Search Committee shall regulate its own procedure. Sub-clause (6) of the said clause provides that before appointing any person as the Chairperson or Member of the Authority, the Central Government shall satisfy itself that such person does not have any financial or other interest as is likely to affect prejudicially his functions.

Clause 11.— This clause provides for the term of office and other conditions of service of Chairperson and Members. Sub-clause (1) of the said clause provides that the Chairperson and Members of the Authority shall hold office for a term of three years from the date on which they enter upon their offices and shall be eligible for reappointment for a further period of three years. However, the Chairperson shall not hold office as such after he has attained age of seventy years and a whole-time Member shall not hold office as such after he has attained the age of sixty-five years.

Sub-clause (2) of the said clause provides that any person holding any office (whether as an employee or an officer or a director or managing director or secretary or manager or in any other capacity) under the Central Government or State Government or in a company (including Government company referred to in section 617 of the Companies Act, 1956) or in any other institution, organization, society or university or Board shall on his selection as the Chairperson or a whole-time Member be required to seek retirement or resign from the services of such Central or State Government or company or institution or organisation or society or University or Board, as the case may be, before accepting the employment as such Chairperson or as the case may be, the Member.

Sub-clause (3) of the said clause provides that the salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed. However, the salary, allowances and other terms and conditions of service of the Chairperson or a Member shall not be varied to his disadvantage after his appointment. Sub-clause (4) of the said clause provides that the Chairperson or Member may relinquish his office by giving in writing to the Central Government a notice of not less than three months or be removed from his office in accordance with provisions of section 14 of the Act.

Clause 12.— This clause provides for the financial and administrative powers of Chairperson. The said clause provides that the Chairperson shall be the Chief Executive Officer of the Authority and shall exercise such financial and administrative powers as may be prescribed. However, the Chairperson shall have authority to delegate financial and administrative powers to any whole-time Member or an officer of the authority subject to the condition that such Member or officer shall while exercising such delegated powers continue to act under the direction, control and supervision of the Chairperson.

Clause 13.— This clause provides for certain restrictions on Chairperson or Members of the Authority on their employment after cessation of office.

Clause 14.— This clause provides for removal of Chairperson and Members. The said clause provides that the Central Government may, by order, remove from office the Chairperson or any Member of the Authority under the circumstances specified therein.

Clause 15.— This clause provides for meeting of Authority. The said clause provides that the Authority shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meeting) as may be specified by regulations.

Clause 16.— This clause provides for vacancies, etc., not to invalidate proceedings of Authority. The said clause provides that no act or proceeding of the Authority shall be invalidated merely by reason of any vacancy in or any defect in the constitution of the Authority or any defect in the appointment of a person as a Member of the Authority or any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 17.— This clause provides for appointment of Secretary and such other number of other officers, employees, consultants or experts as the Authority considers necessary for the efficient discharge of its functions and exercise of its powers under the Act. However, no appointment of officers or employees shall be made unless prior written approval of the Central Government has been obtained by the Authority for creation of posts therefor. Sub-clause (2) of this clause provides that the salaries, allowances and pensions payable to, and other terms and conditions of service of the officers, other employees of the Authority shall be such as may be specified by the regulations.

Clause 18.— This clause provides for transfer of assets, liabilities, etc., of the Atomic Energy Regulatory Board and saving of its actions, etc. The said clause provides that the said Board shall stand dissolved on establishment of the Nuclear Safety Regulatory Authority and that all sums of money due to the Board immediately before that date shall be deemed to be due to the Authority and that all suits and other legal proceedings instituted or which could have been instituted by or against the Board may be continued or may be instituted by or against the Authority.

Sub-clause (2) of this clause provides that the Chairman and Members of the Board shall be transferred as such to function as Chairperson and Members under the Act and be deemed to be the Chairperson and Members of the Authority under the Act until the Chairperson and Members of the Authority are appointed in accordance with the provisions of the Act.

Sub-clause (3) of this clause provides that every officer and employee holding a post in Board shall hold the post in the Authority by the same tenure, and upon the same terms

and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such post as if the Act had not been passed and shall continue to do so as an officer or employee of the Authority for a period of three years unless he within three years opts not to be an employee of the Authority or until his tenure, remuneration or other terms and conditions of service are altered by the regulations.

Sub-clause (4) of this clause provides that every person who opts not to be an employee of the Authority shall be governed by the rules and orders as are applicable to the Central Government officers and employees of equivalent rank. Sub-clause (5) of this clause provides that the tenure, remuneration and other terms and conditions of service including pension of any employee of the Authority shall not be altered to his disadvantage without the previous approval of the Central Government. Sub-clause (6) of this clause provides that after the dissolution of the Board such of the functions and powers of Board as are vested in the Authority shall be carried out by the Authority after such dissolution.

Clause 19.— This clause provides for jurisdiction of Authority. The said clause provides that save as otherwise provided in sections 25 and 27, the jurisdiction of the Authority shall extend to all areas to which this Act is applicable and activities relating to production, development or use of atomic energy and radiation in all its applications, or transport (within India or outside India), transfer by sale or otherwise, import, export or storage or disposal of nuclear and radioactive material.

Clause 20.—This clause provides for functions of Authority. Sub-section (1) of this clause provides that the Authority shall, subject to the provisions of this Act and the rules and regulations made thereunder, take measures, within its jurisdiction, to ensure that the use of radiation and atomic energy is safe for the health of the radiation workers, members of the public and the environment. *Explanation* to this sub-clause clarifies that the functions of the Authority shall be confined only to ensure the radiation safety and nuclear safety during activities relating to production, storage, disposal, transport, transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance or equipment, and physical security of nuclear material, radioactive material, and radiation and nuclear facilities and in no case shall extend to the functions or any other matter which the Central Government is required to discharge under the Atomic Energy Act, 1962.

Sub-clause (2) of this clause provides that the Authority shall also carry out other functions which *inter alia* includes (a) devise and implement policies and programmes for radiation safety and nuclear safety to ensure that use of atomic energy or radiation in all its applications is safe for, the health of radiation workers and members of public, and the environment; (b) ensure high quality of safety management at all places where nuclear and radiation related activities are carried out; (c) ensure transparency by systematic public outreach on matters relating to nuclear safety without disclosing sensitive information and compromising confidentiality of commercially sensitive information of technology holders. Further, it explains the expression “sensitive information” to mean information pertaining to (i) physical security of nuclear material and facilities, or (ii) reprocessing of spent fuel, enrichment of fissile material or heavy water production technologies; (iii) any information under section 26 which has been accessed by the Authority or has come to its knowledge or made available to it in the discharge of its functions; (d) strive to be a knowledge organisation with state of the art scientific capabilities in the domain of its responsibilities, arrange for and conduct research in areas relevant to its functions and develop linkages with technical support organisations. (e) interact with other bodies and international organisations engaged in activities relevant to the functions of the Authority including nuclear and radiation safety, physical security of nuclear material and facilities, transportation of nuclear and radioactive materials and nuclear and radiation safety and regulation. However, the Authority shall not interact with such bodies and international organisations outside India without the prior approval of the Central Government; (f) advise the Central Government with respect to—(i) safety of public and the environment; (ii) measures to implement and

co-ordinate a nationwide programme for environmental surveillance to check any harmful build up of radioactivity in the environment; (iii) measures to ensure establishment and maintenance of appropriate mechanisms and plans for preparedness in response to nuclear and radiation emergencies; (g) notify the limits of radiation exposure to radiation workers and the members of the public; (h) specify by regulations, the requisite qualification, the training required to the persons for employment at premises or places whereat any activity relating to production, storage, disposal, transport and use of any nuclear material, radioactive material or any other substance or equipment used for production, or use of atomic energy is carried out, and specify hours of work, minimum leave and requirements of periodical medical examination of such employees; (i) specify by regulations the requirement of approval to, or licensing of, the persons referred to in clause (h); (j) establish an appropriate regulatory mechanism which shall provide for issue of consents, monitoring of compliances, inspections and enforcement; (k) develop and notify the standards and codes, and develop and publish other supporting documents for safety in design, siting, construction, commissioning, operation, quality assurance, decommissioning, storage, transportation and other activities related to plants, facilities, nuclear and radioactive wastes, radiation sources and radioactive materials; (l) issue, renew, modify, suspend and revoke consents with specified conditions for conduct of any activity which come under its jurisdiction for the production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production, or use of atomic energy; (m) levy fee, by regulation, for issue, modification and renewal of consents; (n) take such measures as to enforce compliance of the provisions of the Act by the holder of the consent; (o) notify measures for physical security within the area of main plant boundary, physical protection of nuclear and radioactive materials under storage as well as transport (within and outside India), and nuclear and radiation facilities; (p) engage with the consent of Head of concerned bodies, the institutions, laboratories, agencies, technical support organisations, industries, individual experts and professionals of integrity and outstanding ability, who have expertise in scientific, technical, sociological, legal and such other disciplines related to nuclear, radiation and industrial safety to assist the Authority in the discharge of its functions; (q) discharge its functions and powers in a manner consistent with the international obligations of India; (r) apprise, from time to time, the National Disaster Management Authority established under section 3 of the Disaster Management Act, 2005 regarding nuclear safety and radiation safety measures and management of disaster arising from nuclear incident notified under section 3 of the Civil Liability for Nuclear Damage Act, 2010 and coordinate with the said Authority in the case of such disaster; (s) notify nuclear incident as required by section 3 of the Civil Liability for Nuclear Damage Act, 2010.

Sub-clause (3) of this clause provides that the Authority may, for reasons to be recorded in writing, exempt, by notification, subject to such conditions as may be specified by it in the notification, any radioactive material, any class or classes of radioactive material or any radiation generating plant from the applicability of any of the provisions of the safety related regulations or orders issued under this Act.

Clause 21.— This clause provides for Authority to Act in interest of sovereignty and integrity of India. The said clause provides that the Authority while discharging its powers and functions, shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

Clause 22.—This clause provides for power of Authority to give directions to owner of radioactive material, etc. The said clause empowers the Authority to direct any owner or holder of the consent or any person dealing with radioactive material, radiation source or facility to hand it over to the Central Government if in the opinion of the Authority, continuation of such material or facility under the control of its owner or the holder of the consent or any such person is detrimental to the safety and physical security of such material or facility or has a potential to be detrimental to the safety of public or the environment. It also provides that the Authority may advise the Central Government to take control of the radioactive material or radiation source if owner thereof cannot be identified.

Clause 23.—This clause provides for administration of Factories Act, 1948. The said clause provides that notwithstanding anything contained in the Factories Act, 1948, the Authority and other regulatory bodies shall, subject to the rules made under the Act, administer the Factories Act, 1948, and do all things for the enforcement of its provisions, including the appointment of inspecting staff, in any factory engaged in the development, production and use of radiation and atomic energy, or any facility engaged in research and development activities related to radiation or atomic energy, and owned or administered by the Central Government or any other authority or corporation established by it or a Government company under the jurisdiction of the Authority or the regulatory bodies, as the case may be. It further provides that no authority under the Factories Act, 1948 shall have jurisdiction in respect of the above functions.

Clause 24.—This clause provides for delegation of powers. The said clause provides that the Authority may delegate to the Chairperson or any Member or officer of the Authority or a State Government or such officer or authority subordinate to the State Government such of its powers and functions under the Act (except the power to make regulations under section 51), as it may deem necessary.

Clause 25.—This clause provides for establishment of regulatory bodies. Sub-clause (1) of the said clause provides that the Central Government may, for the purposes of national defence and security, exempt any nuclear material, radioactive material, facilities, premises and activities, the premises, assets and areas associated with material and activities from the jurisdiction of the Authority.

Sub-clause (2) of this clause provides that the Central Government may, for the purposes of regulating the material, facilities, activities referred to in clause (a) or premises, assets and areas referred to in clause (b) of sub-section (1), by order, in writing establish one or more regulatory bodies and demarcate responsibility thereof to discharge one or more of the functions in respect thereof which otherwise before such exemption were within the jurisdiction of the Authority and such functions amongst other things shall include to (i) ensure that the use of radiation and atomic energy is safe for the radiation workers, the members of the public and the environment; (ii) report to that Government release of radiation or radioactive material exceeding specified limits from facilities under its jurisdiction into any area falling within the jurisdiction of the Authority.

Sub-clause (3) of this clause provides that the Central Government may specify that the provisions of the Act shall subject to such modifications or conditions or adaptation as it may specify, apply to such regulatory bodies.

Clause 26.—This clause provides for prohibition of disclosure of information. Sub-clause (1) of this clause provides that save as otherwise provided in the Act, the regulatory bodies established under sub-section (2) of section 25 of the Act shall not disclose to any person the information relating to the activities falling under their jurisdiction.

Sub-clause (2) of this clause provides that no Chairperson or Member or officer or other employees or consultant or expert shall, either during his employment with such regulatory bodies or after cessation of such employment, disclose any confidential information relating to activities falling under the jurisdiction of regulatory bodies.

Clause 27.—This clause provides for power of Central Government to carry out certain functions itself. The said clause provides that notwithstanding anything contained in this Act or any other law for the time being in force, the Central Government may for the purpose of national defence and security by order exempt any area, nuclear material, radioactive material, nuclear facility or plant from jurisdiction of the Authority or other regulatory bodies under the Act and carry out those functions itself in relation thereto which but for such exemption would have been carried out by the Authority or other regulatory bodies under the Act.

Clause 28.—This clause provides procedure for grant of consent for carrying out activities related to nuclear material, etc. Sub-clause (1) of this clause provides that every

person shall, for carrying out activity falling under the jurisdiction of the Authority relating to production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment, etc., obtain the consent of the Authority and for that purpose submit an application in the prescribed form and manner along with such fee and accompanied by such documents and information as may be specified by regulations. This clause also provides the procedure for grant or refusal of consent.

Clause 29.—This clause provides for suspension and cancellation of consent. This clause provides the grounds and procedure for revocation of consent granted under section 28 of the Act. It also stipulates that where the Authority is satisfied that pending the consideration of question of cancelling consent, it may suspend the consent and require the grantee to show-cause as to why the consent should not be cancelled.

Clause 30.—This clause provides for responsibilities of grantee of consent. The said clause provides that every person who has been granted consent shall be responsible for safety and physical security of radiation and nuclear facility and radioactive and nuclear material contained therein.

Clause 31.—This clause provides for power of Authority to call for information, conduct investigation, etc. Sub-clause (1) of the said clause provides that where the Authority considers it expedient so to do, it may by order in writing, (a) call upon any owner or any person in charge of or managing director, director, secretary or other officer of radiation or nuclear facility at any time to furnish in writing such information or explanation relating to its activities as the Authority may require to carry out its functions under this Act; or (b) appoint one or more persons to make an inquiry in relation to the affairs of any radiation or nuclear facility; and (c) direct any of its officers or employees to inspect the books or other documents of any radiation or nuclear facility.

Sub-clause (2) of the said clause provides that where any inquiry in relation to the affairs of any person referred to in clause (a) of sub-section (1) has been undertaken under that sub-section, (a) every owner or managing director or director, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a company; or (b) every partner, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a firm; or (c) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a) and (b) of sub-section (1), shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him within such time as may be specified. Sub-clause (3) of the said clause provides that every person referred to in clause (a) of sub-section (1) shall maintain such records or other documents as may be prescribed.

Clause 32.—This clause provides for power of Authority to issue certain directions. The said clause provides that the Authority may, for the purpose of discharge of its functions under this Act, issue directions to the persons who have been granted consent under the Act, as it may consider necessary.

Clause 33.—This clause provides for powers of inspection, search and seizure. Sub-clause (1) of this clause provides that the Authority or any other officer specially authorised by it in this behalf may carry out such inspection or inquiry as may be necessary, enter any building or place where the Authority has reason to believe that any document or object relating to the subject matter of the inquiry may be found, and may seize any such document or object subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

Sub-clause (2) of this clause provides that the Authority shall have power of access to premises and places, vehicle, vessel or aircraft where radiation is present or used or proposed to be used; and documents, drawings, photographs, plans, models or any other form which relates to or represents or illustrates any existing or proposed plant, used or proposed to be used for the purpose of producing, developing or using atomic energy or radiation.

Clause 34.—This clause provides for review of order of Authority. The said clause provides that any person aggrieved by an order made by the Authority under sections 28 and 29 may file an application to the Authority for review of that order within a period of thirty days from the date of such order. However, the Authority may entertain such application after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period. Further, notwithstanding the filing of an application under this section, the aggrieved person shall abide by the order in question, unless it has been stayed by a subsequent order of the Authority in writing.

Sub-clause (2) of the said clause provides that every application for review under sub-section (1) shall clearly state the ground or grounds on which a review is sought.

Sub-clause (3) of the said clause provides that an application for review filed before the Authority shall be heard and disposed of as expeditiously as possible and endeavour shall be made to finally dispose of the application within a period of ninety days from the date of its filing.

Clause 35.—This clause provides for Appellate Authority. Sub-clause (1) of this clause provides that the Council of Nuclear Safety shall, as and when required, constitute by notification, an Appellate Authority to hear appeals from any order or decision passed by the Authority under section 28 or 29 or under sub-section (3) of section 34 as the case may be.

Sub-clause (2) of this clause provides that the Appellate Authority shall consist of a Chairperson and not more than two Members. Sub-clause (3) of this clause provides that the selection of the Chairperson and Members of the Appellate Authority shall be made by the Council in consultation with the Chief Justice of India or his nominee.

Sub-clause (4) of this clause provides that a person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Authority unless he in the case of Chairperson is or has been a judge of the Supreme Court or the Chief Justice of a High Court and in case of a Member, is an eminent scientist and has held the post of Secretary to the Government of India or any equivalent post in the Department of the Central Government in the Ministries or Departments or an institution administered by that Government dealing with science and technology.

Sub-clause (5) of this clause provides that the Central Government or any person aggrieved by an order referred to in sub-section (1) may file an appeal before the Appellate Authority within a period of thirty days from the date of such order. However, the Authority may entertain such appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal within that period. Sub-clause (6) of this clause provides for the manner of filing appeal and the fees. Sub-clause (7) thereof provides that every appeal shall be heard and disposed of as expeditiously as possible within a period of ninety days from the date of its filing.

Clause 36.—This clause provides for budget. The said clause provides that the Authority shall prepare budget in each financial year for the next financial year showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government.

Clause 37.—This clause provides for grants by Central Government. The said clause provides that the Central Government may after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid.

Clause 38.—This clause provides for annual statement of accounts. Sub-clause (1) of the said clause provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. Sub-clause (2) of the said clause provides that the accounts of the Authority shall be audited by him at such intervals as may be specified by him.

Sub-clause (3) of the said clause provides that the Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights, privileges and Authority in connection with such audit, as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority. Sub-clause (4) of the said clause provides that the accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Clause 39.—This clause provides for furnishing of returns, etc., to the Central Government. Sub-clause (1) of the said clause provides that the Authority shall furnish to the Central Government, at such time and in such form and the manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require. Sub-clause (2) of the said clause provides that the Authority shall also prepare once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government. Sub-clause (3) of the said clause provides that a copy of the report shall be laid by the Central Government before each House of Parliament.

Clause 40.—This clause provides for offences and penalties. The said clause provides that whoever discloses any information prohibited under section 26, contravenes any condition subject to which a consent is granted under section 28, contravenes any order made under section 31, obstructs any person authorised by the Authority under section 33 in the exercise of the powers under that section, contravenes any rule or regulation made under the Act or any requirement, prohibition or restriction imposed under any such rule or regulation or fails to comply with any direction, order or decision of the Authority or other regulatory bodies under the Act, shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Clause 41.—This clause provides for offences by companies. Sub-clause (1) of the said clause provides that where an offence under the Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. However, nothing contained in the section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Sub-clause (2) of the said clause provides that notwithstanding anything contained in sub-clause (1), where an offence under the Act has been committed with the consent or connivance of, or attributable to any neglect on the part of, any director, manager, secretary or other officer or employees shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. The explanation to the clause clarifies and explains the terms 'company' and 'director'.

Clause 42.—This clause provides for directions by Central Government. Sub-clause (1) of the said clause provides that the Central Government may, from time to time, issue to the Authority or other regulatory bodies, such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in public interest.

Sub-clause (2) of the said clause provides that without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time. However, the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this section. Sub-clause (3) of the said clause provides that the decision of the Central Government whether a question is one of policy or not shall be final.

Clause 43.—This clause provides for Members, officers and employees of Authority to be public servants. It provides that the Chairperson, Members, Secretary, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of the Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 44.—This clause provides for bar of jurisdiction. The said clause provides that no civil court shall have jurisdiction in respect of any matter which the Authority or other regulatory bodies are empowered by or under the Act to determine.

Clause 45.—This clause provides for obligations as to fidelity and secrecy. The said clause provides that every Chairperson, Member, adviser, consultant, Secretary, officer or any other employee of the Authority or other regulatory bodies shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule.

Clause 46.—This clause provides for protection of action taken in good faith. It provides that no suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under the Act or the rules and regulations made thereunder.

Clause 47.—This clause provides for cognizance of offence. The said clause provides that no Court inferior to the Chief Judicial Magistrate shall take cognizance of an offence under the Act except upon a complaint in writing made by the Authority or any officer of the Authority duly authorised by it where the offence relates to an act falling within the jurisdiction of the Authority or the Central Government or any officer of that Government duly authorised by it in respect of any other offence.

Clause 48.—This clause provides for power of Central Government to supersede Authority. Sub-clause (1) of the said clause provides that the Central Government may, by notification, supersede the authority for such period not exceeding six months, extendable for a further term not exceeding six months, in certain circumstances such as (a) that the Authority has acted in a manner inconsistent with the provisions of this Act or rules and regulations made thereunder; or (b) that on account of circumstances beyond the control of the Authority, it is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or (c) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority has suffered or the administration of any radiation or nuclear installation has deteriorated; or (d) that circumstances exist which render it necessary in the public interest so to do. However, this power can be exercised only

after giving reasonable opportunity to the Authority to show cause as to why it should not be superseded and considering explanations and objections, if any of the Authority.

Sub-clause (2) of the said clause provides that on supersession of the Authority, the Chairperson and other Members shall vacate their offices and all powers, functions and duties of the Authority be exercised and discharged by the Central Government or such authority or persons as the Central Government may specify in this behalf.

It also provides that all properties owned or controlled by the Authority shall, until it is reconstituted, vest in the Central Government.

Sub-clause (3) of the said clause provides that on the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may (a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or (b) re-constitute the Authority by fresh appointment and in such case the Chairperson and other Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment. However, the Central Government may, at any time before the expiration of the period of supersession, whether as specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

Sub-clause (4) of the said clause provides that the Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Clause 49.—This clause provides that application of other laws not barred. The said clause provides that the Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force. It further states that nothing in the Act shall affect the provisions of the Atomic Energy Act, 1962 and save and except as otherwise provided, the provision of the Act shall be in addition to and not in derogation of that Act.

Clause 50.—This clause confers upon the Central Government the power to make rules for carrying out the provisions of the Act. Sub-clause (2) of this clause enumerates the various matters in respect of which such rules may be made the matters specified in the said clause.

Clause 51.—This clause confers upon the Authority the power to make regulations consistent with the Act and the rules made thereunder to carry out the provisions of the Act. Sub-clause (2) of this clause enumerates the various matters in respect of which such regulations may be made by the Authority.

Clause 52.—This clause provides that every rule and regulation made under the Act shall be laid before each House of Parliament.

Clause 53.—This clause provides for amendment to certain enactments. It provides that the specified in the Second Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.

Clause 54.—This clause provides for power to remove difficulties. The said clause provides that if any difficulty arises in giving effect to the provisions of the Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the Act, as appear to it to be necessary for removing the difficulty. However, no such order can be made under this section after expiry of three years from the date of commencement of the Act. It further provides that every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

The First Schedule to the Bill sets out the form of making declaration of fidelity and secrecy.

Part-I of the Second Schedule provides for amendments to the Atomic Energy Act, 1962, Part-II thereof provides for amendments to the Right to Information Act, 2005, Part-III thereof provides for amendment to the Disaster Management Act, 2005 and Part-IV thereof provides for amendment to the Civil Liability for Nuclear Damage Act, 2010.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 8 of the Bill provides for the establishment of an Authority to be called the Nuclear Safety Regulatory Authority by the Central Government. Sub-clause (3) thereof provides that the head office of the Authority shall be at such place as the Central Government may consider necessary. Sub-clause (4) thereof enables the Authority to establish, with prior approval of the Central Government, its offices at such other places as may be considered necessary.

2. Sub-clause (1) of clause 9 of the Bill provides that the Authority shall consist of a Chairperson, two whole-time Members and part-time Members not exceeding four to be appointed by the Central Government. Sub-clause (3) of clause 11 of the Bill provides that the Chairperson and Members of the Authority shall be entitled to such salary and allowances and other terms and conditions of service as may be specified by rules made by the Central Government.

3. Sub-clause (1) of clause 17 provides that the Authority may appoint a Secretary and such number of other officers, employees, consultants or experts as it considers necessary for the efficient discharge of its functions and exercise of its powers. Sub-clause (2) thereof provides that the salaries, allowances and pensions payable to and other terms and conditions of service of the officers and other employees of the Authority shall be such as may be specified by regulations.

4. Clause 18 of the Bill provides that on and from the establishment of the Authority, the existing Atomic Energy Regulatory Board shall stand dissolved and the Chairman and Members of the said Board shall stand transferred to the Authority to function as its Chairperson and Members until the Chairperson and Members of the Authority are appointed in accordance with the provisions of the Bill. Further, sub-clause (3) thereof provides that on and from the date of commencement of the Act, every officer and employee holding a post in the Atomic Energy Regulatory Board before that date shall hold the post in the Authority by the same tenure and upon the same terms and conditions of service for a period of three years from the date of the commencement of this Act. Therefore, there may not be any immediate significant increase in the financial implication on constitution of the Authority or in the near future.

5. Sub-clause (2) of clause 25 of the Bill provides that the Central Government may, by an order in writing, establish one or more regulatory bodies.

6. Sub-clause (1) of clause 35 of the Bill empowers the Council to constitute an Appellate Authority to hear appeals. Sub-clause (2) thereof provides that the Appellate Authority shall consist of a Chairperson and not more than two Members.

7. Clause 37 of the Bill provides that the Central Government may, after due appropriation made by Parliament by law in this behalf make to the Authority grants of such sums of money as are required to be paid.

8. It is estimated that during the financial year 2012-2013 a sum of rupees thirty-seven crores may be required for the establishment of the Authority. In addition, it is estimated that during the Twelfth Plan, a sum of rupees one hundred and sixty-four crores may be required for expanding and strengthening the activities of the Authority. The said expenditure will be borne out of the usual budget grants of the Department of Atomic Energy.

9. It is not practicable to make an exact estimate of the expenditure both recurring and non-recurring at this stage as the exact structure of the Council, other regulatory bodies and the Appellate Authority would emerge later.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 51 of the Bill confers power upon the Central Government to make rules for carrying out the provisions of the Act. The matters in respect of which such rules may be made relate *inter alia* to (a) the salaries and allowances payable to and the other terms and conditions of service of Chairperson and Members under sub-section (3) of section 11; (b) the financial and administrative powers to be exercised by the Chairperson under section 12; (c) the manner of maintaining books of account and other documents under sub-section (3) of section 31; (d) the manner and fees for filing appeal under sub-section (6) of section 35; (e) the form and time for preparing the budget under section 36; (f) the form for annual statement of accounts under section 38; (g) the form and manner of furnishing returns under sub-section (1) of section 39; (h) the form and time for preparing the annual report under sub-section (2) of section 39; (i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

2. Clause 52 of the Bill confers power upon the Nuclear Safety Regulatory Authority to make, with the previous approval of the Central Government, regulations consistent with the Act and the rules made thereunder to carry out the provisions of the Act. The matters in respect of which such regulations may be made relate *inter alia* to (a) the time, place, procedure for transaction of business and the quorum of the Authority under sub-section (1) of section 15; (b) the salaries, allowances and pensions payable to, and other terms and conditions of service of the officers and other employees of the Authority under sub-section (2) of section 17; (c) the requisite qualifications and training required to persons under clause (h) of sub-section (2) of section 20; (d) the requirement of approval to, or the licensing of, persons under clause (i) of sub-section (2) of section 20; (e) levy of fee for issue, modification and renewal of consent under clause (l) of sub-section (2) of section 20; (f) the form and manner of application for consent, the fee and documents and information to accompany it under sub-section (1) of section 28; and (g) any other matter which is required to be, or may be, specified by regulations.

3. The rules made by the Central Government and the regulations made by the Nuclear Safety Regulatory Authority shall be laid as soon as may be, after they are made, before each House of Parliament.

4. The matters in respect of which rules and regulations may be made or notification issued are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself.

5. The delegation of legislative power is, therefore, of a normal character.

T. K. VISWANATHAN,
Secretary-General.